SUPPLEMENT

TO AN

ANALYSIS

OF THE

CONSTITUTION

OF

THE EAST-INDIA COMPANY,

&c. &c.

SUPPLEMENT

TO AN

A N A L Y S I S

OF THE

CONSTITUTION

OF

THE EAST-INDIA COMPANY,

AND OF THE

LAWS PASSED BY PARLIAMENT

FOR THE

GOVERNMENT OF THEIR AFFAIRS, AT HOME AND ABROAD.

TO WHICH IS PREFIXED,

A BRIEF HISTORY OF THE COMPANY,

AND OF THE

RISE AND PROGRESS OF THE BRITISH POWER IN INDIA.

BY PETER AUBER, ESQ.

ASSISTANT-SECRETARY TO THE HONOURABLE THE COURT OF DIRECTORS.

LONDON:

PRINTED FOR PARBURY, ALLEN, AND CO., LEADENHALL-STREET;
J. M. RICHARDSON, CORNHILL; AND HARDING AND CO.,
PALL-MALL EAST.

1828.

LONDON:
PRINTED BY J. L. COX, GREAT QUEEN STREET,
Lincoln's-Inn Fields.

THE

ANALYSIS TOGETHER WITH THE SUPPLEMENT

ARE

RESPECTFULLY DEDICATED

TO

WILLIAM ASTELL, Esq., M.P., Chairman,

JOHN LOCH, Esq., Deputy Chairman,

AND TO

THE OTHER MEMBERS

OF

The Honourable the Court of Directors

OF THE

EAST-INDIA COMPANY.

ADVERTISEMENT.

The Analysis contains the Acts relating to the Company to the close of the Session in May 1826. The Acts which have been passed since that time, more particularly those during the last Session of Parliament, are so important as regards India generally, that the present mode is adopted, for the purpose of placing them in a collected form before the Public, with a brief statement to each enactment, as in the Analysis, of its origin and purport. It was suggested that a second edition of the work might have been prepared, so as to combine the whole in one volume; but neither the labour which it would have required, nor the time which it must have occupied, could be devoted to it at the present moment. The indulgence which has been extended to the work is sensibly acknowledged; and in the event of circumstances permitting another edition, the various suggestions which have been thrown out, and which are fully appreciated, will be most readily adopted.

CONTENTS.

PRELIMINARY OBSERVATIONS.



The object originally* contemplated in the present work was to record facts rather than to offer opinions regarding the system under which the government of India is conducted.

In submitting a few preliminary observations to a Supplement, which brings down the Analysis, comprising a continuation of the Brief Historical Sketch, and the Laws, to the present time, no departure from the original plan has been intended.

Great and permanent benefits have been conferred on the Indian community, by the important legislative provisions carried into effect during the last session, which provisions are contained in this volume.

Other subjects connected with India were likewise brought under the consideration of Parliament, which, although not leading to any practical results, presented opportunities for the expression of sentiments and opinions, which condemn, in no very measured terms, the present mode of governing that extensive and interesting empire.

Two questions were brought forward by a distinguished member, whose statements on matters relating to India, from the high judicial station which he formerly so honourably filled in that country, and his subsequent connexion with the Company at home, cannot fail to carry with them, and often deservedly, great weight.

The

The one is a personal case, that of Mr. O'Reilly.

The other a general one, the petition against the stamp act lately imposed by the Bengal Government.

The claim of Mr. O'Reilly for redress from the Court of Directors, for losses which he represents to have sustained by the negligence of the East-India Company, was brought before the House of Commons on the 18th of April last. It was urged on the attention of the House as a case "in which a family had sus-" tained a heavy pecuniary loss, by the negligence, the " gross negligence (I will not say moral misconduct) " and want of care of the public money, which is a " most serious offence in a public body."

It will be perceived, on a perusal of the documents laid before the House of Commons on the 25th June and 7th July, that neither the Court of Directors, nor their Government of Madras nor its servants, have been in any way parties to, or are responsible for the loss sustained by Mr. O'Reilly. In support of this assertion, it may be sufficient to quote the following opinion of His Majesty's Attorney and Solicitor-General, which confirmed the opinion given by Mr. Serjeant Bosanquet, the standing counsel to the Company, *viz.* " that neither the East-India Company nor any other " persons were liable to make good the losses oc-" casioned by the insolvency of Mr. Ricketts."

If the case is one which has no ground of claim beyond that of an appeal to the liberality of the East-India Company, it should be brought forward under such an avowal, and not as founded on grounds imputing to the Company " gross negligence, not to " say moral misconduct."

It is impossible not to observe the earnestness with which the Company are called upon to exercise libe-rality

rality when the occasion suits, whilst at the same moment they are held up as conducting their affairs on principles regardless of economy: clearly shewing that no occasion is lost, where an opportunity offers, for impugning the principles which govern their proceedings, whether relating to a personal or a general question.

The other subject is that of the Tax on Stamps, which was brought before the House of Commons on the 17th June last, when a petition was presented from the inhabitants of Calcutta against that measure. The coarse invectives contained in a publication attributed to a highly favoured servant of the Company, who has taken a prominent part in the question, and whose hostility to the Company appears to have increased in exact proportion with the increase of the advantages which he has derived in their service, are merely alluded to as shewing the justice of the following observations by Sir John Malcolm, who cannot be supposed to cherish any indisposition towards the service, civil or military, in both branches of which he has so highly distinguished himself.

" It is a remarkable fact, that those whose interests, " as a body, the Company are so prompt to defend, " are not so sensible as might be expected of the " safety they derive from this intermediate authority. " The causes of this are obvious: the highest and " most distinguished of these public officers, whose " opinions and actions have a great influence over the " rest, are too often discontented at their condition, " and hostile to this branch of the Indian administra- " tion. The supposed disposition of the Court to " look chiefly to expenditure, occasions every reduc- " tion

" tion either to be ascribed to them, or to a desire of
" conciliating their favour; while all acts of grace or
" liberality are referred either to the representations
" of local superiors in India, or to the interference of
" his Majesty's Government. These conclusions are
" often unjust, but they are always made; and they
" operate to prevent those feelings of respect and at-
" tachment, which it is so desirable men should enter-
" tain for that authority under which they are placed.
" Those feelings, however, never can be maintained
" in large classes, by a system that employs no means
" but those of circumscribed rules and cold inanimate
" justice. There must be parts of the community
" kindled into warmer sentiments than such means
" can ever inspire, or a government will never acquire
" the popularity which it is essential for it to possess.
" This ingredient of rule is singularly wanting in the
" Company's government. It has few if any zealous
" and active advocates, to meet those attacks with
" which it is continually assailed; and the conse-
" quence is, that though serious reflection should
" teach the great body of those who are in its service
" that no change is likely to be for their advantage,
" all that they are in the daily habit of hearing and
" reading is calculated to make a different impression
" upon their minds."*

In moving that the petition as to the Stamp Tax be brought up, it was stated, with reference to the renewal of the Company's charter:

" The question will be taken up in haste, decided
" in haste, and we shall crowd the discussions into a
" few weeks, and postpone all discussion until the
" eve

* Vide Political History of India, vol. ii, page 118.

" eve of decision. If this be a wise course, and if " it be not advisable to enter into preliminary discus- " sions on this great question, I am yet to learn the " first rudiments of prudence and policy; but the " course which I have alluded to is too accordant with " past practice, not to find favour in the eyes of some " persons.

" What has been the history of India and of this " question? For a long time the subject is utterly " neglected; at length, forcing itself upon the atten- " tion of Parliament, it is suddenly taken up, tu- " multuously debated for a few hours, in a few days " spread over a few weeks in a session; and, in the " end, a hurried bargain struck for the lease of this " great empire for twenty years longer. In the in- " terval, the perpetual impatience of Parliament inter- " dicts the most intrepid member in the House from " bringing the subject under its consideration, until " perhaps the very day before the settling day be- " tween the steward and the tenant, when perhaps " some increase in the rent, or some variation in the " covenant, is agreed to. Such is the history of the con- " duct of Parliament towards India, in the successive " periods of 1773, 1783, 1794, and 1813. Our In- " dian legislation has advanced by springs and jerks. " What could have been expected from such a system " and from such management, forming, as it does, a " perfect exemplification of a system—which combines " evils that seem to be irreconcilable: slow without " deliberation, sudden without vigour? When the " subject came upon us on former occasions, there " was not much time for deliberation—all was hurry " and precipitation; scarce a moment's time was de-

" voted

" voted to it, and consideration and inquiry were out " of the question."*

It is impossible that any other inference should be drawn by the public from the foregoing remarks, coming from such an authority, than that the renewal of the charter at each of the periods alluded to was a measure that could not bear either scrutiny or discussion, and was therefore smuggled through Parliament. But what are the facts? It may be asserted without fear of contradiction, that the records possessed by the public on the affairs of India are more voluminous than on any other subject on which Parliament has legislated.

To revert to the period immediately following the grant of the Dewanny in 1765, when Parliament took into consideration various questions regarding the affairs of India, they legislated amongst other matters on a point which cannot but be familiar to the right hon. member who is so powerful an advocate for the rights and liberties of the subject, *viz.* the act as to the declaration of dividends, on which the division in the House of Commons was 59 to 44, and against which nineteen Peers entered their dissent in the House of Lords as a measure " highly dangerous to the property of the subject."

In the earliest stages the Legislature thus appears to have been alive to the affairs of India. But to notice the first period alluded to, *viz.* 1773. So far from the matter being then passed over, it was pointedly adverted to in the King's speech on the opening of Parliament in January 1772.

The consequence was the appointment of two Committees by the House of Commons: one a Secret Committee, for the express purpose of inquiring into the

* Vide Parliamentary Debates, 17th June 1828.

the affairs of the East-India Company. No less than fourteen voluminous reports were laid before the House, in which every branch of the Company's concerns was discussed and fully investigated: their debts and credits; — their revenue derived from commerce and territory; — and the system under which their affairs were conducted, both abroad and at home. The result was the act of 1773, commonly called "the Regulating Act," which may be considered in a great measure as the foundation of the existing system.

Immediately prior to the period when a further arrangement between the public and the Company was to take place, a Parliamentary Committee appointed in 1782 laid eleven reports before the House, in which a complete review was taken of the concerns of the East-India Company, and of the management of the whole of their affairs, foreign and domestic, political as well as commercial.

In 1783-4, at the opening of Parliament, the King's speech adverted to the affairs of India. The result of the measures adopted in that session, which led to the retirement of Mr. Fox from his Majesty's councils, are too well known to need recapitulation in this place.

The third period pointed out is that of 1793. The subject had been matter of discussion between the Government and the Company from 1791. Every opportunity was afforded to the merchants and manufacturers in different parts of the country to submit their opinions and views. A reference to the parliamentary proceedings will shew that the most ample accounts were laid before both Houses. A full statement of the Company's affairs, together with a series of resolutions, were submitted to Parliament in the month of February,

bruary, containing an outline of the bill then intended to be brought in. In April those resolutions underwent discussion in a Committee of the whole House, when they were agreed to. Amendments were moved on the bill, in its several stages through the House of Commons, by Mr. Fox. In corroboration of the foregoing statement, and likewise to shew the attention which was then paid to the subject, the following extract is given from a report of a Committee of the House of Commons in 1810, which report will be again alluded to.

The Committee in fixing upon 1793 as the period from whence to commence their inquiry, state that "on the occasion of renewing the charter in 1793, "every exertion was employed for the discovery of the "extent of the Company's resources, both political "and commercial, and calculations were made with "every practicable attention to accuracy, grounded "upon the actual experience of preceding years, as "it regarded both receipt and expenditure.

"The propriety of taking this as the period for the "commencement of an investigation, is still further "established by the consideration, that the arrange-"ment then made was upon the most extensive scale, "embracing the entire state of the concern, both "abroad and at home; and a line was drawn for the "distribution of the expenditure in India, whether "for the expences of government or the interestupon "the debts. A principle was also established for the "application of the surplus produce of the revenues, "which, on the calculations above adverted to, was "fairly expected to arise."

From 1793 to 1813, not less than six reports of Committees of the House of Commons were laid before Parliament on the affairs of India.

The

The two first were presented and printed in June 1805 and May 1808.* They contained a review of the accounts between the public and the Company, and a statement of the disbursements on behalf of the public for the expeditions undertaken to the French Islands, the Cape of Good Hope, Manilla, to Egypt, and to the Dutch settlements in 1801.

The outlay on account of those operations, together with the state of hostilities on the continent of India, pressed most severely on the financial means of the Company, who consequently sought a settlement of their demands on the public. The Committees, after a minute investigation, reported that £2,500,000 was due to the Company. This is one of the occasions to which the epithet of "sturdy paupers" is applied to the Company for seeking payment of what was admitted to be due, for the purpose of enabling them to carry on the government intrusted to them!

The second report already alluded to was laid before the House in May 1810,* by a Committee appointed to inquire into the state of the Company's affairs, with their observations thereon:

"Your Committee propose in this report to submit "to the consideration of the House a detailed state-"ment of the ordinary revenues and charges of the "East-India Company's territorial possessions, and a "comparison of the amount of those revenues and "charges at the last renewal of the Company's charter "in 1793, with their present amount, according to "the latest advices which have been received from "India."

The

* That of 1805 presented by John Pattison, Esq.; those of 1808 and 1810 by the Right Honourable Sir John Anstruther, Bart.

The Committee then bear testimony to the correct observance by the Company of the enactments prescribing that they "should annually lay before Parliament distinct accounts of the revenues and of the disbursements in India, with the amount of the sales of goods and stores received from Europe, the state of their debts and assets, together with an account of the proceeds of the home treasury and of the debts and assets in England."

And the Committee remark, that "the directions of the act before referred to have been obeyed on the part of the Court of Directors as far as practicable."

The revenues of Bengal, Madras, and Bombay, are then detailed *seriatim:* each branch of mint duties,—post-office collections,—Benares revenue,—land revenues,—judicial fees and fines,—customs,—salt sales,—opium sales,—stamp duties,—farms and licenses,—subsidies,—and revenues of ceded and conquered provinces. The charges are then described, the military branch being first touched upon: the cause of the increase is clearly set forth, as well as a variety of points which had come under review in the consideration of the whole of the extensive subject.

The third report was laid before the House and printed in June 1811,* in which "a general combined view is taken of the whole of the concerns of the East-India Company, both abroad and at home, as respects their existing property and the amount of their debts, in order to lay before the House, as accurately as circumstances will admit, the final result of the various financial transactions, both poli-
"tical

* Presented by the Right Honourable Thomas (now Lord) Wallace.

" tical and commercial, from the year 1793 to the year " 1810."

After entering very fully into the receipts and disbursements comprised under the head " *Extraordinary*," derived from the two-fold source, *viz.* credit in India and by supplies from the treasury in England, in consignments of goods, stores, and bullion, or payment of bills of exchange, and which amounted to not less than £52,293,289, the Committee remark :

" Combining then the whole application of the funds " according to the view now given, it will appear that " the total expenditure of the extraordinary funds, " both in the advance for which property might be said " to remain in England or India, and in direct charge, " is found to amount to the sum of £52,293,289; " which, though less than the amount of these funds " by £16,135, your Committee do not doubt will be " considered by the House as a display of order, re- " gularity, and precision, as satisfactory as could be " expected, in the management of the extensive and " complicated finances of this great empire, from em- " bracing at the same time both the political and " commercial branches of its government and ma- " nagement."

In adverting to the general result of the affairs in India in a financial point of view, by the various operations of a political and commercial nature between April 1792 and April 1809, the Committee point out the increase in debt beyond the assets to amount to £12,590,393, and then remark, that " as " the details of the several items contained in this ac- " count have already been explained, your Committee " need only advert, at present, to the total of them, " and which will be found as near to accuracy as,

"upon full consideration of the general principles "by which the inquiry has been directed, could "possibly be expected, when it is considered that "that inquiry embraces the receipt and application "of a sum approaching two hundred and forty-five "millions sterling."

The Committee then, alluding to the Indian debt, "considered it as due to those intrusted with the "government of India, to state that the growing "amount of the debt has, from a very early period, "been the subject of their anxious observation, and that "it has always been an object of their earnest solici-"tude to devise practicable plans for its reduction."

The fourth report was laid before the House and printed in April 1812,* one year immediately preceding the discussion in the House of Commons in 1813, when the Company's privileges were last renewed; it enters into the Home concerns of the Company. In the early part of this report the Committee make the following remarks with reference to the China trade:

"The trade with China has for a very long period "formed a part of the exclusive privilege of the Com-"pany, and has been carried on upon principles con-"ducive, in a very eminent degree, not only to the "advantage of those embarked in it, but likewise to "the interests of the British empire, in its revenue, in "the employment of its shipping, and in a steady and "continued demand for its manufactures."

Alluding to the aggregate of the several heads of receipt in the Home Treasury, between the years 1793-4 and 1809-10, including the balance of cash on the 1st March 1793, and the balance of tea duties in March

* Also presented by Mr. Wallace.

March 1805, the Committee stated, "that it appeared "to have amounted to the sum of £143,593,248. "Deducting from this sum the amount borrowed or "raised on the credit of the Company, the tea duties, "and the sum advanced by government for the pur-"chase of hemp, it will be found that the affairs of "the Company, partly political but mostly commer-"cial, produced the receipt of monies into the Home "Treasury to the amount of £115,643,987; and that "the revenue drawn by the state during the seven-"teen years amounted to £39,348,358.

A reference to the detailed proceedings which took place at the several periods alluded to, *viz.* 1773, 1784, 1793, and 1813, of which the foregoing is an outline, will satisfy any impartial inquirer, that so far from the agreement between the East-India Company and the public at those periods having been entered into without due deliberation, no subject ever engrossed more of the attention of the Government and of Parliament; and certainly there are no affairs on which the public possess more full and more ample information. It is rather a redundancy, than paucity of information, which is generally complained of.

The next point which was insisted upon in the debate on the 17th June last on the Stamp question, is the inefficient mode in which the East-India Company have administered the government of the country entrusted to them. It was remarked:

"Our grand error has been, that we apply the "maxims of factories to the government of a mighty "empire. As we have never calmly examined the "whole of our system at once, we have never purified "ourselves from these paltry and peddling principles.

 "We

" We have borrowed the little policy of the chiefs of " a few obscure factories, who trembled at the frown " of the Hindoo or Mahomedan tyrants by whom " they were surrounded; and we continue, in some " measure, to be influenced by them in the most " powerful empire between Austria and China. It is " on this ground that the East-India Company have " acted."

It will not be denied, that the judicial administration of every civilized state forms one of its most important features, the course pursued by the East-India Company with reference to that branch of their government consequently falls under the foregoing condemnation. It may therefore be expedient to quote the opinion of Parliament in 1773, as it is one of the periods pointed out to shew the little attention paid by Parliament to the subject of India administration. The Committee of Secresy appointed by the House of Commons to examine into the affairs of India, adverting to the ancient native system of judicature in Bengal, state: " They cannot conclude this part of the subject " without observing, that so far as they are able " to judge from all the information laid before " them, the subjects of the Mogul empire in that " province derived little protection or security from " any of these courts; and that, in general, though " forms of judicature were established and preserved, " the despotic principles of the government ren- " dered them the instruments of power rather than " of justice, not only unavailing to protect the people, " but often the means of the most grievous oppres- " sions under the cloak of the judicial character."

Such was the state of things before the East-India Company took any part in the administration of justice in

in India. The condition of the natives at the period of the Company's assuming the administration is described in the following extract from the fifth report, submitted to the House of Commons in the year 1812,* a report shewing that the most laborious and extensive research was devoted to the subject. The Committee enter into a full review of the systems introduced from the time of Lord Cornwallis; and they remark:

" The internal government was in a state of disorder, and the people suffering great oppression. " These evils were imputed to the nature of the " former administration. It is observed, that the Na- " zims exacted what they could from the zemindars " and great farmers of the revenue, whom they left " at liberty to plunder all below, reserving to them- " selves the prerogative of plundering them in their " turn, when they were supposed to have enriched " themselves with the spoils of the country. The " whole system thus resolved itself, on the part of " the public officers, into habitual extortion and in- " justice, which produced on that of the cultivator " the natural consequences, concealment and evasion, " by which Government was defrauded of a consider- " able part of its just demands."

The same Committee, after referring to their former reports, which have been already noticed, containing some detail of the extensive establishments for the internal administration of justice, remarked, that " they have felt it their duty to offer some ac- " count of the nature and history of those establish- " ments, and of the circumstances under which they " have been augmented to their present scale, trusting " that

* Presented by Mr. Wallace.

"that such an account will be acceptable to the "House, not only as shewing the importance and "utility of the establishments themselves to the wel- "fare and order of the country, but as evincing the "unremitting anxiety that has influenced the efforts "of those to whom the government of our Indian "possessions has been consigned, to establish a sys- "tem of administration best calculated to promote the "confidence and conciliate the feelings of the native "inhabitants, not less by a respect for their own "institutions, than by the endeavour gradually to en- "graft upon them such improvements as might shield, "under the safeguard of equal law, every class of the "people from the oppressions of power, and commu- "nicate to them that sense of protection and assu- "rance of justice, which is the efficient spring of all "public prosperity and happiness."

After entering into a minute detail of the various points embraced in their extensive inquiry, the Committee state, that "an attentive consideration of the "information which the documents afford has led your "Committee to believe, that the administration of "the British Government proved, at an early period "of its introduction, beneficial to the natives of India "residing under its protection. By the superiority of "the British arms they became at once secured from "the calamities frequently experienced in successive "invasions of the Mahrattas; internal commotion was "by the same cause entirely prevented; and if their "condition was not sooner brought to that state of "improvement which the character of the nation un- "der whose dominion they had fallen afforded reason "to expect, the delay may be satisfactorily accounted "for, on grounds that will free those who were imme-

"diately

"diately responsible from any charge of negligence or "misconduct."

And, in conclusion, adverting to the system of government generally: "Although the view given in the "foregoing part of this Report may shew that certain "imperfections are still found in the system of "internal government in the Bengal provinces, yet it "can, in the opinion of your Committee, admit of "no question, whether the dominion exercised by the "East-India Company has, on the whole, been beneficial to the natives. If such a question were proposed, your Committee must decidedly answer it in "the affirmative. The strength of the government of "British India, directed as it has been, has had the "effect of securing its subjects as well from foreign "depredation as from internal commotion. This is "an advantage rarely experienced by the subjects of "Asiatic states; and, combined with a domestic administration more just in its principles, and exercised with far greater integrity and ability than the "native one that preceded it, may sufficiently account "for the improvements that have taken place; and "which in the Bengal provinces, where peace has been "enjoyed for a period of time perhaps hardly paralleled in Oriental history, have manifested themselves in the ameliorated condition of the great mass "of the population; although certain classes may "have been depressed by the indispensable policy of "a foreign government. The nature and circumstances of our situation prescribes narrow limits to "the prospects of the natives in the political and "military branches of the public service. Strictly "speaking, however, they were foreigners who generally enjoyed the great offices in those departments,

"even

"even under the Mogul government; but to agricul-
"ture and commerce every encouragement is afforded
"under a system of laws, the prominent object of
"which is to protect the weak from oppression, and to
"secure to every individual the fruits of his industry.
"The country, as may be expected, has under these
"circumstances exhibited in every part of it, improve-
"ment on a general view, advancing with accelerated
"progress in later times."

Such are the deliberate and recorded opinions of a Committee of the House of Commons, who spared no labour in entering fully into the subject which they undertook to examine. It is to be observed, that the opinion of the Committee is not simply confined to any one branch of the system, for it is broadly and unequivocally declared, that "it admits of no question, "whether the dominion exercised by the East-India "Company has been beneficial to the natives."

Hence it will be perceived from what has already been stated, that so far from "scarce a moment's time "having been devoted to it," inquiry by Parliament the most minute and extended accompanied each renewal of the exclusive privileges enjoyed by the Company; and it is a curious fact, that out of fifteen folio volumes of reports of committees of the House of Commons, during a period of nearly one hundred years, commencing from the year 1700, and printed by order of the House in 1803, five of by far the largest volumes relate entirely to the affairs of India. These are exclusive of the five subsequent reports laid before the House between 1805 and 1813; and the result of the inquiries has proved that the government confided to the East-India Company has been of unquestionable benefit to India and to its inhabitants.

In

In condemning the line of policy which has been observed by the Company for the purpose of preventing an unlimited influx of Europeans into India, the imaginary benefits which an opposite principle would confer upon the natives are then pointed out and strongly insisted upon. It was observed:

" There are in India no such guardians as a middle " class; no such guardians as those persons, who " having embarked in trade and manufactures, de- " pending for success in business on peace and tran- " quillity, looking to the security of the personal pro- " perty for the realization of future fortune, are con- " sequently deeply interested in the maintenance of " order, and would oppose any act that was likely to " disturb it. On one side, the interest of those indi- " viduals would lead them to protect the natives from " oppression; while, on the other, their feelings would " operate with equal strength, supporting order and " authority. If the natives want any set of men to " protect them, let a body of Europeans be invited to " that country to strengthen its connexion with this."* The opinions of the much and deservedly lamented prelate, the late Bishop Heber, were then referred to in support of the above propositions; whilst, at the same time, opinions coming from the self-same source, and which militate against such propositions, were passed by as ideas " formed upon information which he " had received from others rather than to have been " guided by his own experience on the subject." How stand the facts?

Bishop Heber reached Calcutta in October 1823. At

* Debate in the House of Commons on the Stamp question, 17th June 1828.

At the close of January 1824, evidently referring to the Europeans connected with Calcutta or its immediate environs, he expressed himself as follows:

"With regard to the questions which have lately "occupied a good deal of the public attention, the "free press, and the power of sending back Europeans "to England at pleasure, so far as these bear on the "condition of the natives, and the probable tranquil-"lity of the country, I have more to say than I have "now time for. On the whole, I think it still desirable "that, in this country, the newspapers should be li-"censed by government; though, from the increased "interest which the Hindoos and Mussulmans take "in politics, and the evident fermentation which, either "for good or evil, is going on in the public mind, I "do not think the measure can be long continued. "But the power of deportation is, I am convinced, "essential to the public peace. Many of the adven-"turers who come hither from Europe are the great-"est profligates the sun ever saw; men whom nothing "but despotism can manage, and who, unless they "were really under a despotic rule, would insult, "beat, and plunder the natives without shame or pity. "Even now, many instances occur of insult and mis-"conduct, for which the prospect of immediate em-"barkation for Europe is the most effectual precaution "or remedy. It is, in fact, the only control which "the Company possesses over the tradesmen and "ship-builders in Calcutta, and the indigo planters up "the country."

Admitting that so much as related to the indigo planters up the country was derived at that time from information, the Bishop, in March 1825, fifteen months subsequently, after having passed through the eastern, northern,

northern, and western extremities of British India, having been to Dacca and Almora, and passing through the Deccan towards Ahmedabad, writes as follows:

" The English in the Upper Provinces are of course " thinly scattered, in proportion either to the mul- " titude of the heathen, or the extent of territory. " They are, however, more numerous than I expected, " though there are very few indeed who are not in " the civil or military employ of government. The " indigo planters are chiefly confined to Bengal, and " I have no wish that their number should increase in " India. They are always quarrelling with, and op- " pressing the natives, and have done much in those " districts where they abound, to sink the English cha- " racter in native eyes Indeed, the general conduct " of the lower order of Europeans in India is such as " to shew the absurdity of the system of free coloniza- " tion which W—— is mad about."

Thus fully confirming by personal experience the correctness of the information upon which he had formed his original opinion.

It would, however, still be matter for gratulation, if the classes of Europeans pointed out by Bishop Heber were the only parties from whom the natives have experienced any thing tending towards oppression, or who have acted so as to lower the English character in their eyes.

Circumstances attending the failure of a mercantile house at Calcutta in the past year, tended to irritate the native community against the European character and mode of transacting business more than any other event that has taken place. The house, though long insolvent, was supported whilst

whilst gathering up, mostly upon credit, large quantities of produce of all kinds in the interior; and at the moment when all had been collected or was in transit to the presidency, judgment was entered (on a bond given by the house in question) in the supreme court, and the community of the interior saw the goods they had provided, and looked upon as their security, torn from under their eyes, without hope of a fraction of their value being set apart to satisfy their claims! The failure alluded to, though the largest, was not the only one of the same kind.

The opinions of gentlemen possessing local experience appear to have been at all times decidedly opposed to a great increase of Europeans in India. The late Sir Philip Francis recorded his deliberate opinion in 1782, after his return from India, in the following terms:

" Even of adventurers pursuing every mode of ac-" quisition that offers, very few, if any, have succeed-" ed. But these are people to whom no encourage-" ment should be given. Their residence in the " country, especially in the remoter parts, harasses " the people, and alienates them from the natural " habits of submission to any power that protects " them.

" The increase of Europeans in Bengal may be " hazardous to Great Britain in another sense: it " necessarily tends to fix them there for ever; they " become colonists in effect, because in a very great " number a great majority cannot hope or expect " to return with fortune or independence to the " mother country. Their connexions with it are gra-" dually dissolved, and their attachment to it declines " in the same proportion. When once they shall " have multiplied to a certain point, it is in the course

" and

" and nature of things that Bengal will neither pay
" tribute nor obedience to England."*

The coincidence of opinion between two such eminent characters as Sir Philip Francis and Bishop Heber, though expressed at such different periods, is too apparent not to strike the most common observer.

The line of conduct pursued by the East-India Company with reference to their foreign affairs, and the nature of the various and important duties which devolveupon the Executive Body in their home transactions, are really little known or understood.

An instance of the error into which the most enlightened minds may be drawn by an imperfect acquaintance with the subject of the Company's foreign policy, presents itself in the motion brought under the consideration of the House of Lords in December 1802, by the late Marquess of Hastings, then Earl of Moira, on the affairs of the Carnatic, on which occasion his Lordship dwelt " upon the necessity of con-
" trolling the Company in their system of excessive
" aggrandizement and increase of their territories,
" and on the unjustifiable measures of making war for
" conquest." And observed, that " we had found fault
" with France for invading and oppressing all the feeble
" states about her, and by the conduct of the East-
" India Company we allowed that opprobrium to be
" retorted on ourselves, and it was held up to all
" Europe that we pursued in India the same conduct
" of which we so loudly accused France."

It may be only necessary to contrast the opinions entertained by his Lordship in 1802 with the measures pursued

* Introduction to Original Minutes, 1782.

pursued by him in the course of his administration in that same country from 1814 to 1819, which course has deservedly been the theme of applause and admiration. The measures adopted by the two eminent and distinguished noblemen at the head of affairs in India at each of the above-mentioned periods* ended in acquisition of territory; they were stated by their respective governments to be the result of necessity, and on each occasion the East-India Company pressed on their serious attention the principles which the Legislature had laid down for the government of India.

The statements made by the late Mr. Canning, on the occasion of his moving a vote of thanks to the Marquess of Hastings and the British army in India, in March 1819, are so much in point, as regards the conduct of the East-India Company, on the subject of the Company's foreign policy, that it is impossible to avoid quoting them. The right honourable gentleman, whose eloquence could impart even an interest to matters connected with India, expressed himself in the following terms:

"I approach the subject, sir, with the greater caution and delicacy, because I know with how much jealousy the House and the country are in the habit of appreciating the triumphs of our arms in India. I know well that, almost uniformly successful as our military operations in that part of the world have been, they have almost as uniformly been considered as questionable in point of justice. Hence the termination of a war in India, however glorious, is seldom contemplated with unmixed satisfaction. That sentiment generally receives some qualification "from

* Marquess Wellesley and the Marquess of Hastings.

" from a notion, in most cases perhaps rather assumed " than defined, that the war is likely to have been pro- " voked on our part, with motives very different from " those of self-defence. Notions of this sort have " undoubtedly taken deep root in the public mind: " but I am confident that in the present instance " (and I verily believe on former occasions which are " gone by, and with which it is no business of mine " to meddle at present) a case is to be made out as " clear for the justice of the British cause, as for the " prowess of the British arms. Neither, however, do " I accuse of want of candour those who entertain " such notions; nor do I pretend to deny that the " course of Indian history, since our first acquaint- " ance with that country, furnishes some apparent " foundation for them. It is not unnatural that, in " surveying that vast continent, presenting as it does, " from the Boorampooter to the Indus, and from the " northern mountains to the sea, an area of some- " where about one million of square miles, and con- " taining not less than one hundred millions of inha- " bitants; in looking back to the period when our " possessions there consisted only of a simple factory " on the coast for the purposes of a permitted trade; " and in comparing that period with the present, when " that factory has swelled into an empire; when about " one-third in point of extent, and about three-fifths " in point of population, of those immense territories " are subject immediately to British Government; " when not less than another fourth of the land, and " another fifth of the inhabitants, are under rulers " either tributary to the British power or connected " with it by close alliance; it is not unnatural that, " upon such survey and comparison, prejudices should " have

" have arisen against the rapid growth of our Indian " establishment; that its increase should have been " ascribed, not only by enemies or rivals, but by " sober reflexion and by impartial philosophy, to a " spirit of systematic encroachment and ambition.

" On the other hand, in a power so situated as ours, " a power planted in a foreign soil, and without natu- " ral root in the habits or affections of the people; " compelled to struggle, first for its existence, and " then for its security, and, in process of time, for the " defence of allies, from whom it might have derived " encouragement and aid, against nations in the habit " of changing their masters on every turn of fortune, " and the greater part already reduced under govern- " ments founded by successful invasion; in a power " so situated, it can hardly be matter of surprise that " there should have been found an irrepressible ten- " dency to expansion. It may be a mitigation, if not " a justification, of such a tendency, that the inroads " which it has occasioned have grown out of circum- " stances hard to be controlled; that the alternative " has been, in each successive instance, conquest or " extinction; and that, in consequence, we have pre- " vailed for the most part over preceding conquerors, " and have usurped, if usurped, upon older usurpa- " tions.

" I refer to the wise and sober enactments of the " British Parliament, not to dispute their authority or " to set aside their operation, but because I can with " confidence assert, that at no period of our Indian " history have the recorded acts and votes of Parlia- " ment been made more faithfully the basis of instruc- " tions to the Government in India than at the period " when the Marquess of Hastings assumed the supreme

" authority.

" authority. It is but justice to the executive body of " the East-India Company to say, that the whole course " and tenour of their instructions has been uniformly " and steadily adverse to schemes of aggrandizement, " and to any war which could safely and honourably " be avoided. It is but justice to the memory of the " noble person whom I succeeded in the office which " I have the honour to hold, to say, that he uniformly " inculcated the same forbearing policy, and laboured " to turn the attention of the Indian governments " from the extension of external acquisitions or con- " nexions to the promotion of internal improvement. " And having said this, it may not be an unpardonable " degree of presumption in me to add, that I have " continued to walk in the path of my predecessor; " that I have omitted no occasion of adding my exhor- " tations to those which I found recorded in my office " against enterprizes of ambition and wars of con- " quest. So strongly and so recently had the pacific " system been recommended, that upon the eve of the " breaking out of the late hostilities, the hands of the " Supreme Government were absolutely tied up from " any foreign undertakings, except in a case of the " most pressing exigency. Such an exigency alone " produced, or could justify the war, the glorious re- " sult of which the House is now called upon to mark " by its vote."

In the second report from the Committee of the Honourable House of Commons on the public income and expenditure of the United Kingdom laid before the House in June last:

The Committee, after stating that they have inquired into the salaries given to clerks in the India House, the Bank of England, two insurance offices, and one of

the principal banking-houses of London, observe, "there is a material difference in the scales of the "salaries of these establishments."

After adverting to the terms on which clerks are admitted, the Committee remark: "The chief clerks "receive salaries from £800 to £2,000 a-year, and "are taken from the body of the clerks; but the "India House is not of the character of a purely "commercial establishment, and is by no means an "example of economical arrangement." Had reference been made to the plan laid before Parliament in the year 1814, in pursuance of the act of 53d Geo. III, cap. 155, sec. 54, it would have at once been perceived, that half of the establishment of the India House is a political charge, the duties performed by such part being territorial and political, and separate and distinct from the commercial branch. It may likewise be confidently asserted, that very many of the duties performed, even in the commercial branch, differ most materially from any transacted by other establishments which are referred to.

Had the Committee of Finance been aware of the duties discharged at the India House under the direction and instruction of the Chairs and the Court of Directors, it would have been apparent that the comparison which has been drawn will by no means hold good. Let any body look at the various despatches to the several governments in India in the political, revenue, judicial, military, financial, and ecclesiastical departments, to which Mr. Canning (and perhaps a more competent judge could scarcely have been selected) alluded in the following terms in the debate on a motion by Mr. Creevy as to the Board of Control, on the 14th March 1822.

"He had seen a military despatch accompanied with

"199

" 199 papers, containing altogether 13,511 pages; " another, a judicial despatch with an appendage of " 1,937 pages; and a despatch on the revenue with no " fewer than 2,588 pages by its side.

" Much credit was due to the servants of the East- " India Company. The papers received from them " were drawn up with a degree of accuracy and talent " that would do credit to any office in the state. " The Board could not, with all the talents and " industry of the president, the commissioners, or " even of his honourable friend, their tried secretary,* " have transacted the business devolved upon it, " without the talents and industry with which that " business was prepared for them at the India House."

Was it known to the honourable Committee, that all matters connected with the provision of the military investments for India; the superintendence of the recruiting for the Indian army, and embarkation of the military and recruits for India; the adjustment and regulation of matters connected with and arising out of the courts of judicature in India; the correspondence with the various public offices on the multifarious subjects which are of daily occurrence; the consideration and decision of the innumerable personal cases of servants in the civil, military, and other establishments when in this country; the discussion on and adoption of various measures which are ultimately submitted to Parliament, with the view of promoting the welfare and happiness of the native community; the direction and control of the vast commercial concerns of the Company, affording employment to nearly 4,000 men in their Warehouses only. In short, it is impossible to enumerate, and no person is capable of forming a correct judgment, who does not know the interior manage-

 ment

* Now the Right Hon. T. P. Courtenay.

ment of the whole vast machine, and of what the various, important, and incessant calls upon the executive body, and more especially upon the Chairman and Deputy Chairman, consist. These observations are not advanced for the mere purpose of magnifying in the eyes of the public the present system; they are capable of proof or of refutation, and upon the one or the other they must stand or fall.

In a work of this nature, and proceeding from the quarter which it does, any observations with reference to the Hon. Executive Body, however just in themselves, would be misplaced. It is fortunate for the East-India Company, no less than for the interests of India generally, that gentlemen, independent in fortune and character, and possessing deserved weight and influence in public, can be found to devote their time and attention to the maintenance of a system which, though not perhaps without its defects, has worked well, and promoted the benefit of all connected with it both in India and in Europe. The truth is, that the principles upon which it has been conducted are little known, whilst at the same time they are greatly misrepresented. It is much to be desired for the country that the illustrious nobleman, who is now at the head of his Majesty's government, and who is not unacquainted with the affairs of India, may fill that arduous and responsible post when the subject of the Company's charter may come under discussion. It will be no less advantageous to a due consideration of the question, that the office of President of the Board should at that time be occupied by a noble lord, who it may be said possesses almost an hereditary knowledge of Indian affairs.

The extent of the subject and result of the present system

system cannot be better described than in the eloquent terms used by Mr. Canning, on the last occasion on which that highly gifted statesman spoke in public, on the 13th June 1827:

" I believe there is no example in the history of the " world, on the one hand, of the existence of an im- " perial corporation, or on the other of the concur- " rence of two co-ordinate authorities, for so long a " series of years, in conducting without shock or con- " flict the administration of the wonderful, I had " almost said the tremendous empire, over which the " East-India Company and the Crown jointly preside.

" The construction and maintenance of that vast " empire are, indeed, as fearful as extraordinary. It " is a disproof of the common adage, that little wis- " dom is required for governing mankind, to consider " how such a machine has been gradually formed; " how a varied population of nearly 100,000,000 of " souls is kept together under a government so ano- " malous, and distant thousands of miles, with so " much comparative happiness, and so little of inter- " nal confusion. But the greatness of the concern " to be administered has had its natural effect; it " has produced a race of men adequate to its admi- " nistration. I venture to say, that there cannot be " found in Europe any monarchy which within a " given time has produced so many men of the first " talents in civil and military life, as India has, within " the same period, first reared for her own use, and " then given to their native country."

It has been the endeavour to shew, by the foregoing observations,—that where a want of investigation is alleged,—the most minute and extended inquiry has taken place;—that where the government of the Company

Company is stated to have been carried on, on "paltry, peddling principles," it is proved to have been conducted on a system unquestionably beneficial, "shielding under the safeguard of equal law every "class of the people from the oppressions of power, "and communicating to them that sense of protection, "and assurance of justice, which is the spring of all "public prosperity and happiness;"—that where the Company have been charged with a desire of conquest and aggrandizement, their orders have been little short of a peremptory prohibition against their government engaging in hostilities;—that where the greatest benefits are anticipated from an unlimited resort to India of Europeans, serious evils from a limited resort have already been experienced;—and that where judgment has been passed on the economy of the Company's Home management, the nature of the establishment, the duties discharged by it, and the system under which it is conducted, are almost wholly unknown. These observations, apply principally to the subjects connected with the four periods alluded to, *viz.* 1773, 1784, 1793, and 1813. Whenever the question shall again be brought forward, there is no doubt that the East-India Company will be enabled to shew, that they have discharged the great trust reposed in them with advantage to the interests of the state, and have promoted the welfare and happiness of the immense population placed under their rule.

It is deemed expedient to state, that the contents of the Analysis and this Supplement, until they had passed through the press, were unknown to any person but the individual who has thus laid them before the public, and to whom the statements which they contain are to be solely attributed.

CONTINUATION

OF THE

BRIEF HISTORICAL SKETCH

OF THE

RISE AND PROGRESS OF THE BRITISH POWER

IN INDIA.

In consequence of the non-ratification by the Burmese of the treaty entered into on the 3d January 1826, at Patanogah, hostilities were recommenced, and on the 19th measures were taken by Sir Archibald Campbell for the attack of Melloon, which important post, after a gallant defence by the enemy, was carried by assault. Its position, although not so well chosen as some others which had been met with, had been rendered more formidable by labour and art, affording the enemy a presumptive security in their possession of it. 1826. Ava.

The intelligence of the fall of Melloon created the greatest consternation at the capital of Ava. Mr. Price, a member of the American mission, and Mr. Sandford, surgeon of the Royals, a prisoner at Ummerapoora, were sent down for the purpose of treating with the British authorities. They reached head-quarters on the 31st January, and were informed that the terms proposed at Melloon were still open to the court of Ava. The army continued its progress from Patanogah towards the capital, and on the 4th February reached Pakan Yay, an advance of eighty-five miles, and from thence

to

1826. Ava. to Pagahm Mew, where the enemy had been concentrating himself, and by a reconnaissance effected on the evening of the 8th, was discovered in force of not less than 16,000 men, strongly posted about five miles in advance of the village of Yesseah: part of the fugitives from Melloon having been rallied at that point, and there reinforced by fresh levies from Ava. On the 9th February Sir Archibald Campbell determined to attack the enemy, who after a severe struggle was entirely defeated, and the British obtained possession of Pagahm Mew.

Operations were at the same time carried on in Pegu under Col. Pepper. The force of that officer was intended to act simply on the defensive, but the frequent acts of devastation and pillage induced him to move from Pegu towards Shoegeen on the 23d December, which post he occupied without resistance. A severe reverse was however experienced on the 7th January 1826, by a detachment sent under Lieut.-Colonel Conry, for the reduction of Setaung, a stockade on the eastern bank of the river; in the attack that officer was killed, and the party repulsed. The reduction was subsequently effected by a force under Colonel Pepper in person, after surmounting obstacles of no common kind, every man having been up to his neck in water whilst crossing the creek to the attack.

The provinces of Arracan and Assam continued in undisturbed possession of the British authorities. Cachar was freed from a foreign force, and Munnypoor was finally cleared of the enemy.

Sir Archibald Campbell, after halting a day or two at Pagahm Mew, continued his advance towards the capital. On his route, and when within four days of

Ummera-

Ummerapoora Mr. Price again made his appearance, bringing with him the treaty ratified by the king. 1826. Ava.

By the treaty, which was dated at Yandaboo, the 24th February 1826, the King of Ava renounced all claim to, and is to abstain from all interference with Assam and its dependencies, and also with the petty states of Cachar and Jynteea. Ghumbeer Singh was to be recognized as Rajah of Munnypoor, should he desire to return thither. The four provinces of Arracan, Ramree, Cheduba, and Sandoway, as divided from Ava by the Arracan mountains, together with the conquered provinces of Yeh, Tavoy, Mergui, and Tenasserim, were ceded to the British government, who were also to receive from the state of Ava one crore of rupees, as part indemnification to the British government for the expenses of the war. It was also agreed that a commercial treaty, upon principles of reciprocal advantage, should be entered into between the contracting parties.

Sir Archibald Campbell, with Mr. Robertson of the Bengal service, civil commissioner in Ava, and Mr. Mangles, arrived at Calcutta in the Enterprize steam vessel on the 5th April.

Throughout the whole of the protracted war, the troops, both European and native, evinced a patient endurance of fatigue and privations and sickness, to which they were unavoidably exposed in a hostile country, and in an inclement season. The Madras Sepoys manifested an alacrity in volunteering for foreign service, which afforded an unequivocal proof of their fidelity and attachment to government. It would be superfluous to mention the important and effectual aid afforded by his Majesty's squadron under the late Sir James Brisbane, throughout the operations.

Thanks

1826. Ava.

Thanks were voted by Parliament and by the East-India Company, to the joint forces, naval and military, both King's and Company's, which had been engaged.* The Court of Directors confirmed the grant of batta to the army by the Bengal government, and authorized an addition thereto, making the total sum granted nearly half a million sterling.

Bhurtpore.

It has already been noticed that the fortress of Bhurtpore surrendered unconditionally on the 18th January 1826. Its reduction became an object of great importance, with reference to the generally received impression by the natives that it was invulnerable, owing to the celebrated and successful defence which it made when besieged by Lord Lake in 1805. The late Bishop Heber, in a letter to Mr. Williams Wynn, dated in the Carnatic in March 1826, wrote as follows: "It "is really strange how much importance has been at-"tached to the fortress of Bhurtpore. Even in the "Carnatic, Sir Thomas Munro tells me, the native "princes would not believe that it ever could be taken, "or that the Jâts were not destined to be the rally-"ing point of India."† It was a town of great extent, and everywhere strongly fortified, being surrounded by a mud wall of great height and thickness, with a very wide and deep ditch. The circumference of both town and fort was above eight miles, and the walls in all that extent were flanked with bastions at short distances, on which was mounted numerous artillery.

The preparations for the attack were made on a large and complete scale, calculated to insure ultimate success. On the 10th December Lord Combermere appeared before it with an army of upwards of 20,000 men, and a field of more than a hundred pieces of artillery.

* Vide Appendix. † Bishop Heber's Journal, vol. ii, p. 457.

artillery. During the night the enemy had cut the bund or embankment of a lake to the northward, for the purpose of filling the board and deep ditch; a most essential means of defence, which had contributed largely to the successful resistance of the place in 1805. But they had been too tardy with this operation: the British troops arrived in time to make themselves masters of the embankment, and repair the breach before a sufficient quantity of water had flowed into the fosse to render it impracticable. The following days were occupied in reconnoitring the works and determining the points of attack, until the battering train and its appurtenances should have come up, the fortress occasionally firing upon the reconnoitring parties, and skirmishes taking place between small detachments and the enemy's cavalry encamped under the walls. 1826. Bhurtpore.

Lord Combermere, desirous to save the women and children from the horrors of a siege and of a bombardment, like that which must follow from such a battering train as he was about to employ, addressed a letter to Doorjun Sal on the 21st, calling upon him to send them out of the fort, promising them a safe conduct through the British camp, and allowing four and twenty hours for that purpose before he should open his fire upon the town.

Having received an evasive answer, his Lordship again sent to him allowing a further extension of the time for twelve hours; but the humane offer was not accepted. On the 23d therefore, every thing being in readiness to commence operations, and the north-east angle of the works having been fixed upon as the point of attack, the besiegers under a heavy fire took possession of a ruined village called Kuddum Kundee and of Buldeo Singh's garden, and completed their first

parallel

1826. Bhurtpore.

parallel at the distance of about eight hundred yards from the fort. On the morning of the 24th two batteries erected at these two points opened upon the town, and on the 25th another more advanced battery between them having likewise begun its fire within two hundred and fifty yards of the north-east angle, the defences of the east side of that part of the works were in a great measure destroyed. A battery was then constructed bearing on the north face of the same angle, at a distance of about two hundred and fifty yards. The rest of December was employed in a similar manner in strengthening the old batteries, erecting new ones, and pushing forward the works, a constant fire which left scarcely a roof uninjured being kept up against the town, while the enemy seemed to be reserving his resources to the last, and the operations of the besiegers were exposed to no material interruption. On the 3d January 1826 the artillery began to breach the curtains; the ditches in front were found to be dry, and from the ruggedness of the counterscarp, offered fewer obstacles than had been expected. Such, however, was the tenacity of the tough mud walls, that they resisted the effects of shot better than masonry would have done; it was found that the batteries were insufficient to breach them, and recourse was had to mining. On the evening of the 6th, a mine was commenced in the scarp of the ditch on the northern face of the work, with the purpose of improving the breach: but the engineers fearing that they would be discovered if they continued their operations during the day, sprung it at day-light on the following morning, when it was not sufficiently advanced to have any material effect upon the wall. In making a second attempt the miners

were

were driven away, having been countermined from the interior before they had entered many feet; and the gallery was subsequently blown up, it being discovered that the enemy were keeping watch in it. On the 14th another mine under one of the bastions was exploded too precipitately, and failed of its effect. Two more mines were immediately driven into the same work, which were sprung on the 16th so successfully, that with the aid of a day's battering they effected an excellent breach, which was reported to be practicable. On the 17th the mine under the north-east angle was completed, and the following day was fixed for the storm. 1826. Bhurtpore.

Early in the morning of the 18th, the troops destined for the assault established themselves in the advanced trenches, unperceived by the enemy. The left breach was to be mounted by the brigade of General Nicolls, headed by the 59th regiment; that on the right by General Reynell's brigade, headed by the 14th regiment: the explosion of the mine under the north-east angle was to be the signal for the attack. At eight o'clock the mine was exploded with terrific effect; the whole of the salient angle, and part of the stone cavalier in the rear, were lifted into the air, which for some time was in total darkness; but from the mine having exploded in an unexpected direction, or from the troops having been stationed in consequence of miscalculation too near it, the ejected stones and masses of earth killed in their fall several men of the regiment at the head of the column of attack, and severely wounded three officers. They fell so thick about Lord Combermere himself, that Brigadier-General M'Combe, who was standing next to him, was knocked down, and two Sepoys, who were within a few

1826. Bhurtpore. few feet of him, were killed on the spot. The troops immediately mounted to the assault with the greatest order and steadiness, and notwithstanding a determined opposition, carried the breaches. The left breach was the more difficult of the two; the ascent was very steep, but the troops pressed on, and quickly surmounted it, the grenadiers moving up it slowly and resolutely, without yet drawing a trigger in return for the vollies of round shot, grape, and musketry, which were fired upon them. Some of the foremost of the enemy defended the breach for a few minutes with great resolution, but as the explosion of the mine had blown up three hundred of their companions they were soon compelled to give way, and were pursued along the ramparts. Whenever they came to a gun which they could move, they turned it upon their pursuers, but they were immediately killed by the grenadiers and the gun upset. In two hours the whole rampart surrounding the town, although bravely defended at every gateway and bastion, along with the command of the gates of the citadel, were in possession of the besiegers, and early in the afternoon the citadel itself surrendered. Brigadier-General Sleigh, commanding the cavalry, having been intrusted with preventing the escape of the enemy's troops after the assault, made such a disposition of his forces, that he succeeded in securing Doorjun Sal, who with his wife, two sons, and a hundred and sixty chosen horse, attempted to force a passage through the 8th Light Cavalry.

The loss of the enemy could not be computed at less than four thousand killed; and owing to the disposition of the cavalry, hardly a man bearing arms escaped. Thus, as by the surrender of the town, all the

the stores, arms, and ammunition fell into the possession of the victor, the whole military power of the Bhurtpore state might be considered as annihilated. The fortifications were demolished; the principal bastions and parts of several curtains were blown up on the 6th of February; and it was left to the rains to complete the ruin. The futty bourg, or "bastion of victory," built, as the Bhurtporeans vaunted, with the bones and blood of British soldiers who fell in the assault under Lord Lake, was now laid low, and among its destroyers were some of those very men who twenty years before "had been permitted," in the boasting language of the natives, "to fly from its eternal walls." In fact, the fort, in a military point of view, is in a state of complete ruin, open in every direction, and would demand as much expense, or nearly so, to render it again formidable, as would raise another in a new position. All the other fortresses within the Rajah's dominions immediately surrendered; the inhabitants returned to their abodes, and the Rajah was reinstated in his authority. Lord Combermere broke up his camp to return to Calcutta on the 20th February, and arrived there early in April.

1826. Bhurtpore.

Thanks were voted by Parliament and by the East-India Company;* and the prize-money arising from the capture, granted to the Company by the King, was ordered by the Court of Directors to be distributed among the army.

In the early part of 1827 the Bombay government was involved in a discussion with the Rajah of Colapore, a small independent Mahratta state in the province of Bejapoor. The British government, anxious to avoid a rupture, endeavoured, through the resident, to adjust

1827. Colapore.

* Vide Appendix, page 196.

1827. Colapore. adjust the difference which had arisen without having recourse to extreme measures. The Rajah, deaf to all remonstrance, and blind to the real interests of his state, continued to disregard the advice offered to him; he raised additional levies of troops, and at once placed himself in a hostile attitude, which rendered it incumbent on the government to prepare against aggression. The remonstrance of the government remained unanswered, and the Rajah, at the head of large bodies, commenced plundering, not only the properties and territories of his own dependent chiefs, but also those under the special protection or guarantee of the British government, and at the same time extorting money from the inhabitants by means of excessive cruelties. Thus forced into active operations, Colonel Welsh marched from Belgaum with the whole of the disposable troops of that station and crossed the Gutpurba river on the 12th September, and subsequently took up a position in the vicinity of Katabughee, in the Colapore territories, the inhabitants of which flocked in numbers to Colonel Welsh's camp, soliciting protection. These measures had the desired effect; the questions pending with the state of Colapore were brought to a satisfactory conclusion without recourse to actual hostilities; and such arrangements were entered into as will secure the peace and tranquillity of the country, and prevent, on the part of the Rajah, the recurrence of any violation of his engagements.

Sir Thomas Munro. Accounts were received in this country in the month of November of the death of Sir Thomas Munro, governor of Fort St. George. The lamented event took place at Pattercoondah, near Gooty, in the July preceding, and at the moment when that distinguished servant

servant of the Company was on the point of returning to his native land after a period of nearly forty years devoted to the interests of the Company and his country. 1827. Sir Thomas Munro.

The Court of Directors, as a tribute of respect to their late valuable servant, passed a unanimous resolution expressive of the regard which they entertained for his memory.*

Sir Thomas Munro's desire to be relieved from the charge of the government reached this country in September 1826, and in January 1827 Mr. Lushington, formerly of the Madras Civil Service, was appointed his successor. On the same day Major-General Sir John Malcolm was appointed to succeed the Honourable Mountstuart Elphinstone in the government of Bombay. Mr. Lushington sailed from Plymouth in his Mr. Lushington.

* "At a Court of Directors held on Wednesday the 28th November 1827,

"Resolved unanimously, that this Court has learnt with feelings "of the deepest concern the decease of Major-general Sir Thomas "Munro, K.C.B., late governor of Fort St. George, and its regret is "peculiarly excited by the lamented event having occurred at a "moment when that distinguished officer was on the point of return- "ing to his native land, in the enjoyment of his well-earned honours, "after a long and valuable life, which had been devoted to the inte- "rests of the Company and his country.

"That this Court cannot fail to bear in mind the zeal and devotion "manifested by Sir Thomas Munro in retaining charge of the govern- "ment of Madras after he had intimated his wish to retire therefrom, "and at a period when the political state of India rendered the dis- "charge of the duties of that high and honourable station peculiarly "arduous and important; and this Court desires to record this ex- "pression of its warmest regard for the memory of its late valuable "servant, and to assure his surviving family that it deeply sympa- "thizes in the grief which so unexpected an event must have occa- "sioned to them."

his Majesty's ship *Herald* in July (having been previously sworn in as a Member of his Majesty's Most Honourable Privy Council), and reached Madras on the 18th October.

Sir John Malcolm.

Sir John Malcolm sailed from Portsmouth in the ship *Neptune*, on the 6th July, and reached Bombay on the 26th October.

Lord Wm. Bentinck.

Lord Amherst.

On the 18th July 1827 Lord William Bentinck was appointed to succeed Lord Amherst as Governor-General. His Lordship sailed from Plymouth on the 9th February last, and arrived at the Cape about the 9th May, where he found his Majesty's ship *Herald*, having on board Lord Amherst and suite from Bengal. The *Undaunted* proceeded on her voyage to Bengal on the 15th May, and the *Herald* arrived at Portsmouth on the 22d July 1828.

ANALYSIS.

BOMBAY MARINE.

THE East-India Company have maintained, since their earliest establishment, a marine force under the government of Bombay, which has been denominated the BOMBAY MARINE, the ships or vessels in such service being commanded by officers bearing commissions issued by the Company, or by the government in India under their orders, rising by seniority to the respective ranks of lieutenant, commander, captain, and commodore. It is employed on various important services intimately connected with the defence of the British possessions in India, and in the protection of the local commerce: and although its efficiency has been materially lessened from the want of sufficient authority to enforce due subordination, it has nevertheless distinguished itself on several occasions; and instances of the most devoted gallantry have been displayed by the commanders and crews detached on separate service.

The expediency of placing the Bombay Marine under martial law was repeatedly represented to be indispensable by the Government abroad. It was a force constituted by valid authority under powers specifically granted by royal charters in the successive reigns from James II. to George II. Yet it had been held in the Court of the Recorder at Bombay, in causes tried there in 1807, that the charters under which the Bombay Marine had been formed did not import a renunciation of the King's general prerogative, to exact the service of all the subjects being seafaring men on board his own ships; and it had been further held, that the charters did not confer

 the

the power of governing and enforcing discipline in the Company's marine by the same laws, and by the infliction of the same penalties for the same offences, as are provided by statute for the Royal Navy.

The Court of Directors were most anxious to promote the attainment of so desirable and important an object. From the year 1824 to April 1827 the subject was under discussion in this country, and his Royal Highness the Lord High Admiral, on assuming office, evinced every disposition to support the measures which had been proposed in discussion with Lord Melville. Through his Royal Highness's intervention, his Majesty was most graciously pleased to issue an order in council,* conferring on the officers of the Bombay Marine, within the limits of the Company's charter, the privilege of taking rank agreeably to their several degrees with the officers of the Royal Navy; but under the condition that all officers of any rank in the Royal

* "At the Court at St. James's, the 30th June 1827: present, the King's most "Excellent Majesty in Council:

"Whereas there was this day read at the Board a Memorial from His Royal "Highness the Lord High Admiral, dated the 12th of June instant, in the words "following, *viz.*

"Whereas, in consequence of a communication with the Chairman and Deputy "Chairman of the East-India Company, I am of opinion it may be expedient to "confer on the officers of the Bombay Marine, within the limits of the East-India "Company's charter, the privilege of taking rank, agreeably to their several degrees, "with the officers of the Royal Navy; but under the condition that all officers of any "rank in the Royal Navy shall have precedence of all the officers of the Bombay "Marine of the same rank; and that the officers of neither service shall have any "command whatever over the ships' officers and men of the other service, unless by "special orders to that effect from the respective governments. I beg leave, there-"fore, most humbly to submit to your Majesty, whether your Majesty will not "be most graciously pleased by your Order in Council to confer upon and to grant "to the officers of the Bombay Marine, the said relative rank and precedency, in "conformity with the foregoing proposition.

"His Majesty having taken the said Memorial into consideration, was pleased, by "and with the advice of his Privy Council, to approve thereof; and to order, and "it is hereby ordered, that the officers of the Bombay Marine, within the limits of "the East-India Company's charter, do take rank agreeably to their several degrees "with officers of the Royal Navy, under restrictions and upon the conditions proposed "in the said Memorial, and His Royal Highness the Lord High Admiral is to "give the necessary directions herein accordingly.

(Signed) "Jas. Buller."

Royal Navy shall have precedence of all the officers of the Bombay Marine of the same rank; and that the officers of neither service shall have any command whatever over the ship's officers and men of the other service, unless by special orders to that effect from the respective governments.

His Royal Highness the Lord High Admiral was pleased to issue his warrant, authorizing the Bombay Marine to wear, in addition to the red ensign, which all ships belonging to his Majesty's subjects should legally wear, the Union Jack, and a long pendant having a St. George's Cross on a white field in the upper part next the mast, with a red fly;* and at the same time to intimate his gracious intention to issue positive directions to his Majesty's Naval Officers in India, neither to impress men from the Bombay Marine nor to accept their voluntary services. Such were the important and satisfactory arrangements carried into effect regarding the force in question, to the close of September 1827. The Court of Directors on intimating them to the Bombay government, issued orders for a revision of the establishments of ships and officers. Difficulties still presenting themselves to the extension of the exact provisions of the Naval Mutiny Act: measures were contemplated for subjecting the corps to a defined code of martial law, so as to effectually provide for the maintenance of discipline and the punishment of desertion. The necessity of such measures was superseded by the Chairman of the East-India Company, William Astell, Esq., M.P., obtaining leave on the 1st July to bring in a bill to extend the provisions of the

* " By his Royal Highness the Lord High Admiral of the United Kingdom of " Great Britain and Ireland, &c.:

" Whereas I have deemed it expedient that the ships of the Bombay Marine " shall be granted the privilege of wearing, in addition to the Red Ensign, which " all ships belonging to his Majesty's subjects should legally wear, the Union Jack " and a long pendant, having a St. George's Cross on a white field in the upper " part next the mast, with a red fly; I do therefore, by virtue of the power and " authority vested in me, hereby warrant and authorize the Union Jack and Pen- " dant above described being worn on board the ships of the Bombay Marine " accordingly.

" Given under my hand, and the Seal of the office of Admiralty, the 12th of " June 1827. (Signed) " William Henry.

" By command of His Royal Highness,

(Signed) " J. W. Croker."

the Mutiny Act for the Company's army to the Bombay Marine. The same was introduced on the 3d, and has been subsequently passed into a law.

LAW.

1828. 1st July, 4 Geo. 4, cap. 18.

Whereas in the 4th year of the reign of his present Majesty, an Act 4th Geo. IV., cap. 81, was passed, entitled " An Act to consolidate and " amend the Laws for punishing Mutiny and Desertion of Officers " and Soldiers in the service of the East-India Company."

And whereas the said Company, for the safety and protection of the territories under their government, in addition to their land forces maintain a marine establishment called the Bombay Marine; and it is expedient that discipline should be enforced therein in the manner provided by the said Act in respect to the other forces of the said Company; and it is intended that the officers of the said Bombay Marine should hereafter be commissioned, and the seamen should be enlisted as officers and soldiers respectively of the said Company's army: be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, that the provisions of the said Act, and the rules and articles of war made and to be made by virtue thereof, shall extend and be applied to the service of the Bombay Marine, and that all persons in the service of the said Company belonging to the said Bombay Marine, who shall be commissioned or in pay as officers, or enlisted or in pay as non-commissioned officers or soldiers respectively in the said Company's army, shall be to all intents and purposes liable to the provisions of the said Act, and to the same rules and articles of war, and the same penalties as the officers and soldiers of the said Company's other forces.

(2) And be it further enacted, that this act shall commence and take effect from and after the 1st day of January one thousand eight hundred and twenty-nine.

BY-LAWS.

UNDER the head *By-laws*, in Part I. of this Analysis, the original appointment and powers of the Committee are described. It consists of fifteen members, chosen in General Court out of the Proprietors, each possessing £2,000 stock. The Committee are required to meet twice in the year, and to be summoned by the secretary for the time being, on the requisition of any two of its members.

No By-law can be effectual which shall alter the constitution of the Company, as provided for by the charter, or which shall be contrary to any act of parliament.

No By-law can be suspended, altered, or repealed, without the consent and approbation of two General Courts, of the first of which fourteen days' public notice at the least must be given.

The present Committee, consisting of the following members, was chosen on the 18th June 1828, *viz.*

The Hon. DOUGLAS KINNAIRD (Chairman of the Committee).

GEORGE CUMMING, Esq.	JOHN H. TRITTON, Esq.
PATRICK HEATLY, Esq.	JOHN CARSTAIRS, Esq.
GEORGE GROTE, Esq.	RICHARD TWINING, Esq.
ROBERT WILLIAMS, Esq.	Sir JAMES SHAW, Bart.
BENJAMIN BARNARD, Esq.	JOHN HALLETT, Esq.
Sir HENRY STRACHEY, Bart.	WILLIAM BURNIE, Esq.
JOHN DARBY, Esq.	JOHN HODGSON, Esq.

The only alteration which has been made in the By-laws since 1826 is in the By-law, chap. iv, sec. 3, which alteration vests in the Court of Directors the power, should they see fit, of ordering sundry payments to be made at the Bank of England, in such manner as shall be arranged between the Court of Directors and the Bank. The By-law as it now stands is as follows, the alteration being in italics.

BY-LAW.

Item, it is ordained, that for every sum drawn out of the Bank of England, a write-off, or draft, shall be signed by the Chairman or Deputy-Chairman for the time being, and one other Director of the Committee of Treasury, and countersigned by the principal cashier or his deputy, or by such other officer or officers as the Court of Directors shall appoint for that purpose; and that no other person but the principal cashier or his deputy shall present the said write-off or draft for payment; *excepting nevertheless that all bills of exchange accepted by order of the Court of Directors, and the dividends on the Company's capital stock, and also orders for monies made payable to others than the cashier or his deputy, may, if the Court of Directors should think fit so to direct, be paid at the Bank of England, in such manner as may be arranged between the Court of Directors and the Bank.*

CARNATIC AND TANJORE COMMISSIONERS.

CARNATIC.

In Part I. of the Analysis, pages 129 and 708, the origin of the Carnatic and Tanjore Commissions is given in detail. The former was appointed under an agreement between the East-India Company and the private creditors, on the 10th July 1805: the latter under an agreement dated the 11th February 1824.

The aggregate amount of Carnatic claims which had been preferred in 1825, was £30,216,707, of which £27,163,979 had been rejected, and £2,485,630 admitted; since that period the further sum of £483,516 has been investigated, of which £362,403 has been rejected, and £121,113 admitted.

The following is an abstract of the amount of adjudications to the date of the last report from the *Carnatic* commission, dated 15th February 1828, and also the close of the Commissioners' Report.

	£.	s.	d.
" Aggregate of absolute adjudications *in* " *favour* of parties........................	2,585,821	4	10½
" Aggregate of provisional adjudications " *in favour* of parties....................	20,923	2	0½
	2,606,744	6	11
" Aggregate of absolute adjudications " *against* the parties, including the " portions disallowed on claims fa- " vourably adjudicated	27,526,382	2	8¾
Total...	£30,133,126	9	7¾

Brought forward...	£30,133,126	9	7¾
" Estimated balance of the amount of " claims already reported to this Ho- " nourable House, which remain to be " adjudicated, exclusive of the amount " of a further number of small claims " (between five and six thousand) form- " ing the subject of the arrangements " noticed in the following paragraphs.	268,824	7	8¾
	" £30,401,950	17	4½

" Since the date of the last Report which we had the honour " to lay before this Honourable House, we have received from " the Commissioners at Madras the whole of the Reports from " Mr. Lacon, who was, in the first instance, employed on the " part of the East-India Company, to settle, upon certain terms, " at that time offered by their Government of Fort St. George, a " portion of the small claims on the fund provided by the deed " of the 10th July 1805, by which the Carnatic Commission was " appointed. The several parties who accepted those terms " withdrew, in consequence, their claims from our jurisdiction, " and we have thereby been enabled to adjudicate against them " absolutely, as having accordingly nothing due to them from " the said fund.

" We have the satisfaction to report to this Honourable " House, that we have recently received a communication " from the Honourable Court of Directors of the East-India " Company, informing us of the complete success of the " *further* arrangement, so far as it has hitherto been carried " into effect, which they had directed with a view to the " release of the said fund from the whole of the said class " of small claims. None of the particulars have yet reached " us from the Commissioners at Madras: but we expect to " receive from them, in succession, the Reports necessary to " empower us finally to liberate the said fund from all the " said claims which have been withdrawn under the said " further arrangement, so soon as the Commissioners shall

" have

" have completed the details relative to the identity and the " title of this numerous class of claimants.

" We have further the honour to state to this Honourable " House, that we have passed awards (one, provisionally; the " others, absolutely;) on all the claims (including those under " the Relief Act, 59 Geo. III., No. 294), which the Returns " made by the Commissioners in India have, since the date of " our last Report, enabled us to adjudicate; and the Commis- " sioners at Madras have given assurances of their intention to " transmit, with as little delay as the nature of the inquiries will " admit, their further Reports on the remaining claims which " have been referred by us for their investigation.

" We have further the honour to report to this Honourable " House that, in consequence of the reference to the Bengal " Government, noticed in our last Report, the Governor-Gene- " ral in Council has adopted measures to secure, in future, " due regularity in the execution of the duties of the Carnatic " and Tanjore Commissioners at Madras.

" BENJAMIN HOBHOUSE,
" THOMAS COCKBURN,
" ROBERT HARRY INGLIS."

" Carnatic Office,
" Manchester Buildings, Westminster,
" 15th February 1828."

TANJORE.

The Tanjore Commissioners have made four Reports of their proceedings:

The 1st dated 21st February 1825.
2d .... 22d February 1826.
3d .... 6th December 1826.
4th and last, 15th February 1828.

by which it appears that the aggregate amount of claims is Star Pagodas 3,578,345, or £1,431,338. The conclusion of the fourth and last Report is as follows:

" In our second Report to Parliament, under date the 22d of " February 1826, we had the honour to present to this Honour- " able House a list of claims preferred to us, and to state, " that in regard to them, we had obtained all the evidence

" recoverable

" recoverable, in this country, and had transmitted copies of
" that evidence, with detailed instructions, to the Commis-
" sioners in India, directing them to lose no time in completing
" the investigation of the said claims, and in forwarding to us
" their reports thereon respectively.

" In our Third Report, presented to this Honourable House
" on the 6th of December 1826, we had the honour to present a
" list of claims preferred to the Commissioners in India, which
" they had transmitted to us, unaccompanied by evidence, and
" the examination of which, in the first instance, must be con-
" ducted in India; and further to state, that we had not received
" the result of the inquiries, which, in reference to that and the
" former list of claims, we had directed to be made by the Com-
" missioners in India. We are in the same actual state at pre-
" sent, owing to the delay which the said Commissioners expe-
" rienced in obtaining the Mahratta records of the late Rajah
" Ameer Sing, and to their difficulty in finding an efficient Mah-
" ratta translator; but in consequence of a despatch recently
" forwarded to us by them, we have reason to believe that these
" obstacles having been removed, we shall soon receive the
" Reports which they may have completed on the claims sub-
" mitted to their investigation.

" BENJAMIN HOBHOUSE,
" THOMAS COCKBURN,
" ROBERT HARRY INGLIS."

" Office of the Tanjore
" Commissioners,
" Manchester Buildings, Westminster,
" 15th February 1828."

CRIMINAL JUSTICE.

In the month of March 1826 Mr. Secretary Peel drew the attention of the House of Commons to the state of the criminal law generally in this country. The subject had engaged the time and talents of the late Sir Samuel Romilly, and subsequently of Sir James Mackintosh, both of whom, at various periods, brought different propositions connected with it under the consideration of Parliament.

Mr. Peel's object was more extended: it embraced the consolidation of the various acts which related to offences against property, and which, in their then state, were considered to encumber the statute book, and to confuse each other. The multiplicity of provisions and the minute nature of the details, rendered it utterly impossible to carry the bill through that session; another bill was, however, introduced and passed, which had reference to the general subject of the criminal justice of England, but more particularly to amending the regulations relative to the admittance to bail in cases of felony. The clause making accessories before the fact liable to the same punishment as the principal felon, was opposed, but ultimately carried. A proposal for allowing the counsel of prisoners, upon their trial for felony, to address the jury on the evidence, though strongly supported, was rejected, and the bill was finally passed into a law.

In the following session Mr. Peel introduced four other bills, which, with the bill brought in the preceding session were passed into acts, *viz.*, 7th and 8th Geo. IV., cap. 27, for repealing various statutes in England relative to the benefit of clergy, and to larceny and other offences connected therewith, and to malicious injuries to property, and to remedies against the hundred. By this act one hundred and thirty-seven different statutes, commencing with the *Charta de Foresta*, 9th Henry III. cap. 10, were repealed.

Cap.

Cap. 28, for the further improving the administration of justice in criminal cases in England.

Cap. 29, for consolidating and amending the laws relative to larceny, and other offences connected therewith.

Cap. 30, for consolidating and amending the laws relative to malicious injuries to property, including machinery, manufactories, and mines; and

Cap. 31, for consolidating the laws relative to remedies against the hundred.

When Mr. Peel introduced those bills, it was found that, however useful and important many or most of their provisions would be if extended to the East-Indies, still there was so much which was inapplicable to Asiatic habits, and the inconvenience of declaring what part should, and what part should not extend to those countries, would have been so great, that it was deemed expedient not to notice the East-Indies at all upon that occasion. With the caution and foresight which has so eminently marked that distinguished statesman, he accordingly protected India from any of the doubts or difficulties which might have resulted from an unqualified repeal of all those old laws which, so far as England was concerned, he swept at once from the statute book, by expressly confining their repeal to England and the high seas, leaving India therefore subject the same code of criminal law by which it was then governed, in order that, upon mature consideration, a separate and distinct code for the administration of criminal justice there might be introduced in the following session.

Nor was such a measure expedient solely with reference to the consolidation and amendment of the criminal law as applied to the British territories in India. It appears that his Majesty's courts of justice there have been in the habit of deciding (as of necessity they must have done) what British statutes did and what did not extend to the persons and places within their respective jurisdictions; to remove all doubt and difference of opinion upon such a subject was a matter of no small moment, and while the act in question accomplishes all those objects, it provides for or corrects such oversights and inaccuracies in former statutes as experience has shewn to be so.

To prevent all doubt and misapprehension as to the places

or

or the persons falling within its provisions, its first section precisely defines both, by enacting that it "shall extend to all "persons and all places, as well on land as on the high seas, "over whom or which the jurisdiction of any of his Majesty's "courts of justice, erected or to be erected within the British "territories, under the government of the United Company "of Merchants of England trading to the East-Indies, does "or shall hereafter extend." His Majesty's colonies, therefore, such as Ceylon and the Mauritius, are not included in its operation.

In addition to the introduction of all such of the provisions of Mr. Peel's acts of last session as were deemed fit to be applied to India, and of those also of the act introduced during the present session by that right hon. gentleman respecting offences against the person, the act in question includes likewise the provisions of that which was introduced during the present session by the Right Honourable Lord Tenterden, Lord Chief Justice of his Majesty's Court of King's Bench, for amending the law of evidence in certain cases, permitting Quakers and Moravians to give evidence on affirmation, instead of oath, in all cases, criminal as well as civil. Following his Lordship's principle, and wisely extending it to meet the scruples of the natives of Asia, some of whose castes are extremely reluctant to take an oath, this act declares, that every native of any country within the limits of the Company's charter, who may be required to give evidence in any case whatsoever, *criminal* or *civil*, may, instead of taking an oath in the usual form, be permitted to make a solemn affirmation or declaration, in such manner and form as the court shall deem sufficiently binding on the conscience. Under this head, too, it may be noticed that the act corrects an oversight which had crept into the East-India Mutiny Act, requiring that the oaths to be taken by members of general or other courts-martial, or courts of request composed of military officers, should be taken *upon the Holy Evangelists*, and enacts that such persons may, instead thereof, be sworn according to the forms of their respective religions.

With a view to make the act as nearly as possible a complete code

code in itself, for the administration of criminal justice within the East-India Company's territories, it repeals the provisions in the act of 39th and 40th Geo. III. cap. 79, relative to transportation; and those of the act of 53d Geo. III. cap. 155, relative to the stealing securities for money, to forgery, and to counterfeiting coin; and incorporates them with the provisions of this act.

In giving this brief outline of the effect of this most important act, its minute and laborious details have not been noticed; but it may be observed, that few acts have probably ever passed which have been subjected to more patient or anxious consideration. When the subject was first brought to the attention of the Court of Directors, the Company's law officers were immediately instructed to afford every assistance that their knowledge or experience could devise, in furtherance of the important object in view: an assistance to which they not only assiduously devoted themselves during every part of the progress of this great measure, but in which they were honoured with the benefit of the practical and high legal knowledge of the Right Hon. Sir James Mackintosh, Sir Edw. Hyde East, Robert Fergusson, Esq., M.P., and Mr. Serjeant Spankie; the two former of whom have held the highest judicial stations, and the two latter the highest official stations in the law in the East-Indies. Mr. Williams Wynn, who had also devoted the utmost care and attention to the subject, obtained leave, on the 4th June, to bring in the bill upon which the present act is founded; and on that occasion adverted to the aid which he had received from the eminent persons alluded to, and was pleased to express his sense of the obligation which he felt under to the Company's law officers, for the assistance which they had rendered to him.

At the same time, and under the same auspices, was introduced another measure of no less importance than that to which we have just referred.

On the 6th of June Mr. Wynn introduced the bill, which on the 9th of July 1828 received the royal assent, and became an Act for the Relief of Insolvent Debtors.

LAW.

Act to take effect in the East-Indies on 1st March 1829.

(1) Be it enacted, that this act shall commence and take effect on and from the first day of March one thousand eight hundred and twenty-nine, and shall extend to all persons and all places, as well on land as on the high seas, over whom or which the criminal jurisdiction of any of his Majesty's courts of justice erected or to be erected within the British territories under the government of the United Company of Merchants of England trading to the East-Indies does or shall hereafter extend. 1828. 25 July, 9 Geo. 4, cap. 74.

Who may be admitted to Bail on a Charge of Felony.

(2) And be it enacted, that where any person shall be taken on a charge of felony or suspicion of felony before one or more justice or justices of the peace, and the charge shall be supported by positive and credible evidence of the fact, or by such evidence as if not explained or contradicted shall in the opinion of the justice or justices raise a strong presumption of the guilt of the person charged, such person shall be committed to prison by such justice or justices in the manner hereinafter mentioned; but if there shall be only one justice present, and the whole evidence given before him shall be such as neither to raise a strong presumption of guilt nor to warrant the dismissal of the charge, such justice shall order the person charged to be detained in custody until he or she shall be taken before two justices at the least; and where any person so taken, or any person in the first instance taken before two justices of the peace, shall be charged with felony or on suspicion of felony, and the evidence given in support of the charge shall in their opinion not be such as to raise a strong presumption of the guilt of the person charged, and to require his or her committal, or such evidence shall be adduced on behalf of the person charged as shall in their opinion weaken the presumption of his or her guilt, but there shall notwithstanding appear to them, in either of such cases, to be sufficient ground for judicial inquiry into his or her guilt, the person charged shall be admitted to bail by such two justices in the manner hereinafter mentioned: provided always, that nothing herein contained shall be construed to require any such justice or justices to hear evidence on behalf of any person so charged as aforesaid, unless it shall appear to him or them to be meet and conducive to the ends of justice to hear the same: provided also, that in all cases where any person or persons charged as aforesaid shall be brought before one justice, at any place beyond the local limits of the jurisdiction of any of his Majesty's courts of justice erected or to be erected within the British territories under the government of the said United Company, it shall be lawful for such justice alone either to commit such person to prison or to admit him to bail as hereinbefore directed.

F Justices

1828. 25 July, 9 Geo. 4, cap. 74.

Justices to take down in Writing the Examination, &c., and bind Witnesses to appear at the Trial.

(3) And be it enacted, that the justice or justices of the peace, before he or they shall admit to bail or commit to prison any person arrested for felony or on suspicion of felony, shall take the examination of such person, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, and the two justices shall certify such bailment in writing; and every such justice shall have authority to bind by recognizance all such persons as know or declare any thing material touching any such felony or suspicion of felony, to appear at the next court of oyer and terminer or gaol delivery, or superior criminal court or sessions of the peace, at which the trial thereof is intended to be, then and there to prosecute or give evidence against the party accused; and such justices and justice respectively shall subscribe all such examinations, informations, bailments and recognizances, and deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court.

Duty of Justice.

(4) And be it enacted, that every justice of the peace before whom any person shall be taken on a charge of misdemeanor, or suspicion thereof, shall take the examination of the person charged, and the information upon oath of those who shall know the facts and circumstances of the case, and shall put the same, or as much thereof as shall be material, into writing, before he shall commit to prison or require bail from the person so charged; and in every case of bailment shall certify the bailment in writing, and shall have authority to bind all persons by recognizance to appear to prosecute or give evidence against the party accused, in like manner as in cases of felony; and shall subscribe all examinations, informations, bailments, and recognizances, and deliver or cause the same to be delivered to the proper officer of the court in which the trial is to be, before or at the opening of the court, in like manner as in cases of felony.

Duty of Coroner.

(5) And be it enacted, that every coroner, upon any inquisition before him taken, whereby any person shall be indicted for manslaughter or murder, or as an accessory to murder before the fact, shall put in writing the evidence given to the jury before him, or as much thereof as shall be material, and shall have authority to bind by recognizance all such persons as know or declare any thing material touching the said manslaughter or murder, or the said offence of being accessory to murder, to appear at the next court of oyer and terminer or gaol delivery, or superior criminal court or sessions, at which the trial is to be, then and there to prosecute or give evidence against the party

party charged; and every such coroner shall certify and subscribe the same evidence, and all such recognizances, and also the inquisition before him taken, and shall deliver the same to the proper officer of the court in which the trial is to be, before or at the opening of the court.

1828. 25 July, 9 Geo. 4, cap. 74.

Penalty on Justices and Coroners.

(6) And be it enacted, that if any justice or coroner shall offend in any thing contrary to the true intent and meaning of these provisions, the court to whose officer any such examination, information, evidence, bailment, recognizance, or inquisition ought to have been delivered, shall, upon examination and proof of the offence in a summary manner, set such fine upon every such justice or coroner as the court shall think meet.

Accessory before the Fact.

(7) And for the more effectual prosecution of accessories before the fact to felony, be it enacted, that if any person shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any statute or statutes made or to be made, the person so counselling, procuring, or commanding shall be deemed guilty of felony, and may be indicted and convicted, either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished; and the offence of the person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas, or at any place on land, whether within his Majesty's dominions or without; and that in case the principal felony, and the offence of counselling, procuring, or commanding, shall have been committed in different places, the last-mentioned offence may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company, having jurisdiction to try either of the said offences: provided always, that no person who shall be once duly tried for any such offence, whether as an accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.

1828. 25 July, 9 Geo. 4, cap. 74.

Accessory after the Fact.

(8) And be it enacted, that if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the high seas or at any place on land, whether within his Majesty's dominions or without; and that in case the principal felony, and the act by reason whereof any person shall have become accessory, shall have been committed in different places, the offence of such accessory may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company, having jurisdiction to try either of the said offences: provided always, that no person who shall be once duly tried for any offence of being an accessory shall be liable to be again indicted or tried for the same offence.

Accessory may be prosecuted after Conviction of the Principal.

(9) And be it enacted, that if any principal offender shall be in any wise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be in anywise convicted, as he should have suffered if the principal had been attainted.

Indictments for Offences committed on the Property of Partners.

(10) And be it enacted, that in any indictment or information for any felony or misdemeanor wherein it shall be requisite to state the ownership of any property whatsoever, whether real or personal, which shall belong to or be in the possession of more than one person, whether such persons be partners in trade, joint tenants, parceners, or tenants in common, it shall be sufficient to name one of such persons, and to state such property to belong to the person so named, and another or others, as the case may be; and whenever in any indictment or information for any felony or misdemeanor it shall be necessary to mention, for any purpose whatsoever, any partners, joint tenants, parceners, or tenants in common, it shall be sufficient to describe them in the manner aforesaid; and this provision shall be construed to extend to all joint stock companies and trustees.

Indictment

Indictment not to abate by dilatory Plea of Misnomer.

1828. 25 July, 9 Geo. 4, cap. 74.

(11) And be it enacted, that no indictment or information shall be abated by reason of any dilatory plea of misnomer, or of want of addition, or of wrong addition of the party offering such plea, if the court shall be satisfied by affidavit or otherwise of the truth of such plea, but in such case the court shall forthwith cause the indictment or information to be amended according to the truth, and shall call upon such party to plead thereto, and shall proceed as if no such dilatory plea had been pleaded.

What Defects shall not vitiate an Indictment.

(12) And be it enacted, that no judgment upon any indictment or information for any felony or misdemeanor, whether after verdict or outlawry, or by confession, default, or otherwise, shall be stayed or reversed for want of the averment of any matter unnecessary to be proved, nor for the omission of the words "as appears by the record," or of the words "with force and arms," or of the words "against the "peace;" nor for the insertion of the words "against the form of the "statute," instead of the words "against the form of the sta-"tutes," or *vice versâ;* nor for that any person or persons mentioned in the indictment or information is or are designated by the name of office or other descriptive appellation instead of his, her, or their proper name or names; nor for omitting to state the time at which the offence was committed, in any case where time is not of the essence of the offence, nor for stating the time imperfectly, nor for stating the offence to have been committed on a day subsequent to the finding of the indictment or exhibiting the information, or on an impossible day, or on a day that never happened; nor for want of a proper or perfect venue, where the court shall appear by the indictment or information to have had jurisdiction over the offence.

What sufficient to stay or reverse Judgment after Verdict.

(13) And be it enacted, that no judgment after verdict, upon any indictment or information for any felony or misdemeanor, shall be stayed or reversed for want of a similiter, nor by reason that the jury process has been awarded to a wrong officer, or upon an insufficient suggestion, nor for any misnomer or misdescription of the officer returning such process, or of any of the jurors, nor because any person has served upon the jury who has not been returned as a juror by the sheriff or other officer; and that where the offence charged has been created by any statute, or subjected to a greater degree of punishment, the indictment or information shall, after verdict, be held sufficient to warrant the punishment prescribed by the statute, if it describe the offence in the words of the statute.

Plea

Plea of not guilty shall put Prisoner on his Trial.

1828. 25 July, 9 Geo. 4, cap. 74.

(14) And be it enacted, that if any person, being arraigned upon any indictment or inquisition for treason, felony, or piracy, shall plead thereto a plea of not guilty, he shall by such plea, without any further form, be deemed to have put himself upon the country for trial, and the court shall in the usual manner order a jury for the trial of such person accordingly.

On refusal to plead, Court may order a plea of not guilty.

(15) And be it enacted, that if any person, being arraigned upon or charged with any indictment, inquisition, or information, for treason, felony, piracy, or misdemeanor, shall stand mute, or will not answer directly to such indictment, inquisition, or information, in every such case it shall be lawful for the court, if it shall so think fit, to order the proper officer to enter a plea of not guilty on behalf of such person, and the plea so entered shall have the same force and effect as if such person had actually pleaded the same.

Challenge of Jury.

(16) And be it enacted, that if any person arraigned upon any indictment or inquisition for any treason, felony, or piracy, shall challenge peremptorily a greater number of the men returned to be of the jury than such person is entitled by law so to challenge in any of the said cases, every peremptory challenge beyond the number allowed by law in any of the said cases shall be entirely void, and the trial of such person shall proceed as if no such challenge had been made.

Another attainder not pleadable.

(17) And be it enacted, that no plea setting forth any attainder shall be pleaded in bar of any indictment, unless the offence stated in the plea be substantially the same offence as that charged in the indictment.

Jury not to inquire of Prisoner's Lands, &c.

(18) And be it enacted, that where any person shall be arraigned upon any indictment or inquisition for treason or felony, the jury impannelled to try such person shall not be charged to inquire concerning his lands, tenements, or goods, nor whether he fled for such treason or felony.

Benefit of Clergy abolished, and what Felonies shall be capital.

(19) And be it enacted, that benefit of clergy with respect to persons convicted of felony shall be abolished.

(20) And be it enacted, that no person convicted of felony shall suffer death, unless it be for some felony which was excluded from the

the benefit of clergy before the day hereinbefore mentioned for this act taking effect, or which shall be made punishable with death by this act or by some statute to be passed hereafter. 1828. 25 July, 9 Geo. 4, cap. 74.

Felonies not capital how to be punished.

(21) And be it enacted, that every person convicted of any felony not punishable with death, shall be punished in the manner prescribed by the statute or statutes specially relating to such felony; and that every person convicted of any felony for which no punishment hath been or hereafter may be specially provided, shall be deemed to be punishable under this act, and shall be liable, at the discretion of the court, to be transported to such place as such court shall direct, for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Court may order hard Labour or solitary Confinement.

(22) And be it enacted, that where any person shall be convicted of any offence punishable under this act, for which imprisonment may be awarded, it shall be lawful for the court to sentence the offender to be imprisoned, or to be imprisoned and kept to hard labour, in the common gaol or house of correction, and also to direct that the offender shall be kept in solitary confinement for any portion or portions of such imprisonment, or of such imprisonment with hard labour, as to the court in its discretion shall seem meet.

Court may pass a second Sentence, to commence after the Expiration of the first.

(23) And be it enacted, that wherever sentence shall be passed for felony on a person already imprisoned under sentence for another crime, it shall be lawful for the court to award imprisonment for the subsequent offence, to commence at the expiration of the imprisonment to which such person shall have been previously sentenced; and where such person shall be already under sentence either of imprisonment or of transportation, the court, if empowered to pass sentence of transportation, may award such sentence for the subsequent offence, to commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, although the aggregate term of imprisonment or transportation respectively may exceed the term for which either of those punishments could be otherwise awarded.

Punishment for subsequent Felony.

(24) And be it enacted, that if any person shall be convicted of any felony not punishable with death, committed after a previous conviction for felony, such person shall on such subsequent conviction

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1828. 25 July. 9 Geo. 4, cap. 74.

be liable, at the discretion of the court, to be transported to such place as such court shall direct, for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment; and in an indictment for any such felony committed after a previous conviction for felony, it shall be sufficient to state that the offender was at a certain time and place convicted of felony, without otherwise describing the previous felony; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony, purporting to be signed by the clerk of the court or other officer having the custody of the records of the court where the offender was first convicted, or by the deputy of such clerk or officer (for which certificate a fee of three sicca rupees, and no more, shall be demanded or taken), shall, upon proof of the identity of the person of the offender, be sufficient evidence of the first conviction, without proof of the signature or official character of the person appearing to have signed the same; and if any person other than such clerk, officer, or deputy, shall sign any such certificate as such clerk, officer, or deputy, or if any person shall utter any such certificate with a false or counterfeit signature thereto, every such offender shall be guilty of felony, and being lawfully convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male, to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Admiralty Offences.

(25) And be it enacted, that all offences prosecuted in any of his Majesty's Courts of Admiralty shall, upon every first and subsequent conviction, be subject to the same punishments, whether of death or otherwise, as if such offence had been committed upon the land.

Rule for interpreting Criminal Statutes.

(26) And be it enacted, that wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject matter thereof, or the offender, or the party affected or intended to be affected by the offence, shall use words importing the singular number or the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable

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to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved. 1828. 25 July 9 Geo. 4, cap. 74.

Court may abstain from pronouncing Sentence of Death.

(27) And be it enacted, that whenever any person shall be convicted of any felony, except murder, for which he shall by law be liable to suffer death, and the court before which such offender shall be convicted shall be of opinion that the particular circumstances of the case do not require that judgment of death should be pronounced, but that such offender is a fit and proper subject either to be recommended to the royal mercy or to be ordered to be transported under the authority of this act, it shall and may be lawful for such court, if it shall think fit so to do, to direct the proper officer then being present in court to require and ask, whereupon such officer shall require and ask, if such offender hath or knoweth any thing to say why judgment of death should not be recorded against such offender; and in case such offender shall not allege any matter or thing sufficient in law to arrest or bar such judgment, the court shall and may, and is hereby authorized to abstain from pronouncing judgment of death upon such offender, and instead of pronouncing such judgment, to order the same to be entered of record, and thereupon such proper officer as aforesaid shall and may and is hereby authorized to enter judgment of death on record against such offender in the usual and accustomed form, and in such and the same manner as is now used, and as if judgment of death had actually been pronounced in open court against such offender by the court before which such offender shall have been convicted.

Record of Judgment to have Effect.

(28) And be it further enacted, that a record of every such judgment so entered as aforesaid shall have the like effect to all intents and purposes, and be followed by all the same consequences, as if such judgment had actually been pronounced in open court, and the offender had been reprieved by the court.

Court may order Capital Offenders to be transported.

(29) And be it enacted, that when any person shall be convicted of any felony for which judgment of death shall be pronounced or recorded against him, it shall and may be lawful for the court, instead of leaving such judgment of death to be executed on such offender, to order such offender to be transported to such place as the court shall direct, either for life or for such term of years as the court shall order.

(30) And be it enacted, that where any offender shall be ordered or sentenced to be transported by any court, the Governor-in-Council of the presidency, or other chief officer of the place where the conviction shall be had, shall and he is hereby required to take order for the

1828. 25 July, 9 Geo. 4, cap. 74.

the due performance of such sentence of transportation accordingly: provided always, that it shall not be lawful for any such court to order the transportation of any person, being a native of the East-Indies and not born of European parents, to the Eastern coast of New South Wales, or any of the islands adjacent thereto.

Persons returning from Transportation.

(31) And be it enacted, that if any offender who shall be ordered by any court to be transported for any term of life or years, shall be found within any of the British territories within the limits of the said United Company's charter, except the place to which he shall have been so ordered to be transported, or shall come into any part of this United Kingdom before the end of his term, and shall be convicted thereof, he shall be liable to be punished as a person attainted of felony, and to suffer death accordingly: provided nevertheless, that nothing herein contained shall be construed or taken to prevent his Majesty from extending his royal mercy to any such offender, and allowing his return from such place of transportation.

Party whose name is forged shall be a competent Witness in Prosecutions.

(32) And be it enacted, that on any prosecution by indictment or information, either at common law or by virtue of any statute, against any person, for forging or counterfeiting any deed, writing, instrument, or other matter whatsoever, or for uttering any deed, writing, instrument, or other matter whatsoever, knowing the same to be forged or counterfeited, or for being accessory before or after the fact to any such offence, if the same be a felony, or for aiding, abetting, or counselling the commission of any such offence, if the same be a misdemeanor, no person shall be deemed to be an incompetent witness in support of any such prosecution, by reason of any interest which such person may have or be supposed to have in respect of such deed, writing, instrument, or other matter.

Effect of free or conditional Pardon to a Convict.

(33) And be it declared and enacted, that where the King's Majesty shall be pleased to extend his royal mercy to any offender convicted of any felony punishable with death or otherwise, and by warrant under his sign manual, countersigned by one of his principal secretaries of state, shall grant to such offender either a free or a conditional pardon, the discharge of such offender out of custody in the case of a free pardon, and the performance of the condition in the case of a conditional pardon, shall have the effect of a pardon under the great seal for such offender as to the felony for which such pardon shall be so granted: provided always, that no free pardon, nor any such discharge in consequence thereof, nor any conditional pardon, nor the performance of the condition thereof, in any of the cases aforesaid, shall prevent or mitigate the punishment to which the

the offender might otherwise be lawfully sentenced on a subsequent conviction for any felony committed after the granting of any such pardon. 1828. 25 July, 9 Geo. 4, cap. 74.

Punishment for Felony, after endured, shall have the effect of a Pardon.

(34) And be it enacted, that where any offender hath been or shall be convicted of any felony, and hath endured or shall endure the punishment which hath been or shall be adjudged or ordered in respect thereof, the punishment so endured hath and shall have the like effects and consequences as a pardon under the great seal, as to the felony whereof the offender was so convicted: provided always, that nothing herein contained, nor the enduring of such punishment, shall prevent or mitigate any punishment to which the offender might otherwise be lawfully sentenced on a subsequent conviction for any other felony.

What shall render a Party an incompetent Witness after Punishment.

(35) And be it enacted, that where any offender hath been or shall be convicted of any misdemeanor which renders the parties convicted thereof incompetent witnesses (except perjury or subornation of perjury), and hath endured or shall endure the punishment to which such offender hath been or shall be adjudged for the same, such offender shall not, after the punishment so endured, be deemed to be by reason of such misdemeanor an incompetent witness in any court or proceeding, civil or criminal.

Affirmations of Quakers, &c. to be admitted.

(36) And be it enacted, that every Quaker or Moravian, who shall be required to give evidence in any case whatsoever, criminal or civil, shall, instead of taking an oath in the usual form, be permitted to make his or her solemn affirmation or declaration in the words following; that is to say, "I, A. B., do solemnly, sincerely, and truly "declare and affirm;" and that every native of any country within the limits of the charter of the said United Company, who may be required to give evidence in any case whatsoever, criminal or civil, and who shall object on the ground of any religious scruple to take an oath in the usual form, may, at the discretion of the court, be permitted to make his or her solemn affirmation or declaration in such manner and form as the court shall deem sufficiently binding upon his or her conscience, which said affirmation or declaration shall be of the same force and effect in all courts of justice and other places, where by law an oath is required, as if such Quaker, Moravian, or Native had taken an oath in the usual form; and if any person making such affirmation or declaration shall be convicted of having wilfully, falsely, and corruptly affirmed or declared any matter or thing which if the same had been sworn in the usual form would have amounted to wilful and corrupt perjury, every such offender shall be subject to the

same

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same pains, penalties, and forfeitures to which persons convicted of wilful and corrupt perjury are subject.

Persons to be sworn according to their respective Religions.

(37) And be it enacted, that all persons who by any laws are now required to take an oath upon the holy Evangelists, or in any other manner, for the purpose of sitting or acting as members of any court, civil or criminal, or for any other purpose whatsoever, may, instead thereof, be sworn according to the forms of their respective religions.

Aiders and Abettors how punishable.

(38) And be it enacted, that in case of any felony punishable under this act, every principal in the second degree, and every accessory before the fact, shall be punishable with death, or otherwise, in the same manner as the principal in the first degree is by this act punishable; and every accessory after the fact to any felony punishable under this act (except only a receiver of stolen property), and an accessory after the fact to murder, shall, on conviction, be liable to be imprisoned for any term not exceeding two years; and every person who shall aid, abet, counsel, or procure the commission of any misdemeanor punishable under this act, shall be liable to be indicted and punished as a principal offender.

(39) And be it enacted, that if any person shall aid, abet, counsel, or procure the commission of any offence which is by this act punishable on summary conviction, either for every time of its commission, or for the first and second time only, or for the first time only, every such person shall, on conviction before a justice of the peace, be liable for every first, second, or subsequent offence of aiding, abetting, counselling, or procuring, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence as a principal offender is by this act made liable.

In what cases Persons may be apprehended, Search Warrants granted, and Property seized.

(40) And be it enacted, that any person found committing any offence punishable either upon indictment or upon summary conviction by virtue of this act, may be immediately apprehended without a warrant by any peace officer, or by the party aggrieved, or by his servant, or any person authorized by him, and forthwith taken before some neighbouring justice of the peace, to be dealt with according to law; and if any credible witness shall prove upon oath before a justice of the peace a reasonable cause to suspect that any person has in his possession or on his premises any property whatsoever, on or with respect to which any such offence shall have been committed, the justice may grant a warrant to search for such property, as in the case of stolen goods; and any person to whom any property shall be offered to be sold, pawned, or delivered, if he shall have reasonable

cause

cause to suspect that any such offence has been committed on or with respect to such property, is hereby authorized, and if in his power is required, to apprehend and forthwith to carry before a justice of the peace the party offering the same, together with such property, to be dealt with according to law.

1828. 25 July, 9 Geo. 4, cap. 74.

Summary Proceedings within Three Months.

(41) And be it enacted, that the prosecution for every offence punishable on summary conviction under this act shall be commenced within three calendar months after the commission of the offence, and not otherwise; and the evidence of the party aggrieved shall be admitted in proof of the offence.

Mode of compelling the Appearance of Persons.

(42) And be it enacted, that where any person shall be charged on the oath of a credible witness, before any justice of the peace, with any such offence, the justice may summon the person charged to appear at a time and place to be named in such summons, and if he shall not appear accordingly, then (upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode) the justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person, and bringing him before himself or some other justice of the peace; or the justice before whom the charge shall be made may (if he shall so think fit) without any previous summons (unless where otherwise specially directed) issue such warrant, and the justice before whom the person charged shall appear or be brought shall proceed to hear and determine the case.

Penalties on summary Convictions.

(43) And be it enacted, that every sum of money which shall be forfeited for the value of any property stolen or taken, or for the amount of any injury done (such value or amount to be assessed in such case by the convicting justice), shall be paid to the party aggrieved, if known, except where such party shall have been examined in proof of the offence; or when the party aggrieved is unknown, such sum shall be applied in the same manner as the penalty: provided always, that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the value of the property, or to the amount of the injury, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only, and the corresponding sum or sums forfeited by the other offender or offenders shall be applied in the same manner as any penalty imposed by a justice of the peace is herein directed to be applied.

(44) And

1828. 25 July, 9 Geo 4, cap. 74. (44) And be it enacted, that in every case of a summary conviction under this act, where the sum which shall be forfeited for the value of the property stolen or taken, or for the amount of the injury done, or which shall be imposed as a penalty by the justice, shall not be paid either immediately after the conviction or within such period as the justice shall at the time of the conviction appoint, it shall be lawful for the convicting justice (unless where otherwise specially directed) to commit the offender to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of the justice, for any term not exceeding two calendar months, where the amount of the sum forfeited or of the penalty imposed, or of both (as the case may be), together with the costs, shall not exceed fifty sicca rupees, and for any term not exceeding four calendar months, where the amount, with costs, shall not exceed one hundred sicca rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount, with costs.

(45) Provided always, and be it enacted, that where any person shall be summarily convicted before a justice of the peace of any offence against this act, and it shall be a first conviction, it shall be lawful for the justice, if he shall so think fit, to discharge the offender from his conviction, upon his making such satisfaction to the party aggrieved, for damages and costs, or either of them, as shall be ascertained by the justice.

(46) And be it enacted, that in case any person convicted of any offence punishable upon summary conviction by virtue of this act shall have paid the sum adjudged to be paid, together with costs under such conviction, or shall have suffered the imprisonment awarded for nonpayment thereof, or the imprisonment adjudged in the first instance, or shall have been discharged from his conviction in the manner aforesaid, in every such case he shall be released from all further or other proceedings for the same cause.

Form of Conviction.

(47) And be it enacted, that the justice before whom any person shall be convicted of any offence against this act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall require; *videlicet*,

'Be it remembered, that on the —— day of —— in the year of 'our Lord —— at [*as the case may be*] *A.O.* is convicted before me '*I.P.*, one of his Majesty's justices of the peace for —— for that he 'the said *A.O.* did [*specify the offence, and the time and place when and 'where the same was committed, as the case may be, and on a second conviction state the first conviction,*] and I the said *I.P.* adjudge the said '*A.O.* for the said offence to be imprisoned in the —— [*or to be im-'prisoned in the —— and there kept to hard labour for the space of* '——;]

' —— ;] *or*, I adjudge the said *A.O.* for his said offence to forfeit and ' pay [*here state the penalty actually imposed, or state the penalty, ' and also the value of the articles stolen, or the amount of the injury, ' and as the case may be,*] and also to pay the sum of —— for costs; ' and in default of immediate payment of the said sums, to be im- ' prisoned in the —— [*or* to be imprisoned in the —— and there kept ' to hard labour] for the space of —— unless the said sums shall be ' sooner paid; [*or*, and I order that the said sums shall be paid by ' the said *A.O.* on or before the —— day of —— ;] and I direct ' that the said sum of [i. e. *the penalty only*] shall be paid to —— of ' —— aforesaid, in which the said offence was committed, to be by ' him applied according to the directions of the statute in that case ' made and provided; [*or* that the said sum of —— i. e. *the penalty*, ' shall be paid to, *&c. as before*,] and that the said sum of —— [i. e. ' *the value of the articles stolen, or the amount of the injury done*,] ' shall be paid to *C. D.* [*the party aggrieved, unless he has been examined ' in proof of the offence, in which case state that fact, and dispose of the ' whole like the penalty, as before.*] Given under my hand and seal, ' the day and year first above mentioned.' 1828. 25 July, 9 Geo. 4, cap. 74.

Appeal.

(48) And be it enacted, that in all cases where the sum adjudged to be paid on any summary conviction shall exceed fifty sicca rupees, or the imprisonment adjudged shall exceed one calendar month, or the conviction shall take place before one justice only, any person who shall think himself aggrieved by any such conviction may appeal to the next court of general or quarter sessions which shall be holden not less than twelve days after the day of such conviction, provided that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

No

No Certiorari, &c. allowed.

1828. 25 July, 9 Geo. 4, cap. 74.

(49) And be it enacted, that no such conviction, or adjudication made on appeal therefrom, shall be quashed for want of form, or be removed by certiorari or otherwise into any of his Majesty's superior courts of record; and no warrant of commitment shall be held void by reason of any defect therein, provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

Convictions to be returned to the Sessions, and how far Evidence in future cases.

(50) And be it enacted, that every justice of the peace before whom any person shall be convicted of any offence against this act shall transmit the conviction to the next court of general or quarter sessions, there to be kept by the proper officer among the records of the court; and upon any indictment or information against any person for a subsequent offence, a copy of such conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove conviction for the former offence, and the conviction shall be presumed to have been unappealed against until the contrary be shown.

Venue in Actions under this Act.

(51) And be it enacted, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this act shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such cause of action shall be given to the defendant one calendar month at least before the commencement of the action; and in any such action the defendant may plead the general issue, and give this act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action.

Fines how to be applied.

(52) And whereas doubts have arisen whether his Majesty's supreme courts at Calcutta, Madras, and Bombay respectively, or any

justice of the peace in the British territories under the government of the said United Company, may lawfully defray the costs of any prosecution, or may make compensation to any prosecutor, otherwise than out of any fine levied in the same prosecution; be it enacted, that each of the said supreme courts may apply towards the reasonable costs of prosecuting offences, or of compensating prosecutors, (whether the prosecution be before the said court or any justices of the peace), any part of the whole sum arising out of fines levied by or transmitted to the said courts: provided always, that no such allowance for costs or compensation shall be made, except upon motion in open court: and that nothing herein contained shall prevent justices of the peace from making such allowances for costs or compensation to prosecutors as they might before have lawfully done. 1828. 25 July, 9 Geo. 4, cap. 74.

Punishment for Petit Treason.

(53) And be it enacted, that every offence which before the commencement of this act would have amounted to petit treason shall be deemed to be murder only, and no greater offence; and all persons guilty in respect thereof, whether as principals or as accessories, shall be dealt with, indicted, tried, and punished as principals and accessories in murder.

Punishment of Principal and Accessory.

(54) And be it enacted, that every person convicted of murder, or of being an accessory before the fact to murder, shall suffer death as a felon; and every accessory after the fact to murder shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life or for any term of years, or to be imprisoned for any term not exceeding four years.

Period of Execution, and Marks of Infamy.

(55) And be it enacted, that every person convicted of murder shall be executed according to law on the day next but one after that on which the sentence shall be passed, unless the same shall happen to be Sunday, and in that case on the Monday following; and the body of every murderer shall, after execution, either be dissected or hung in chains, as to the court shall seem meet; and sentence shall be pronounced immediately after the conviction of every murderer, unless the court shall see reasonable cause for postponing the same; and such sentence shall express not only the usual judgment of death, but also the time hereby appointed for the execution thereof, and that the body of the offender shall be dissected or hung in chains, if the court shall think fit: provided always, that after such sentence shall have been pronounced, it shall be lawful for the court or judge to stay the execution thereof, if such court or judge shall so think fit.

Trial

1828. 25 July, 9 Geo. 4, cap. 74.

Trial of Murder and Manslaughter within the Limits of the Company's Charter.

(56) And be it enacted, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon the land or at sea, within the limits of the charter of the said United Company, shall die of such stroke, poisoning, or hurt at any place without those limits, or being feloniously stricken, poisoned, or otherwise hurt, at any place whatsoever either upon land or at sea, shall die of such stroke, poisoning, or hurt, at any place within the limits aforesaid, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished by any of his Majesty's courts of justice within the British territories under the government of the said United Company, in the same manner in all respects as if such offence had been wholly committed within the jurisdiction of the court within the jurisdiction of which such offender shall be apprehended or be in custody.

Punishment of Manslaughter.

(57) And be it enacted, that every person convicted of manslaughter shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term not less than seven years, or to be imprisoned for any term not exceeding four years, or to pay such fine as the court shall award.

Excusable and justifiable Homicide.

(58) Provided always, and be it enacted, that no punishment or forfeiture shall be incurred by any person who shall kill another by misfortune, or in his own defence, or in any manner without felony.

Attempt to murder.

(59) And be it enacted, that if any person unlawfully and maliciously shall administer or attempt to administer to any person, or shall cause to be taken by any person, any poison or other destructive thing, or shall unlawfully and maliciously attempt to drown, suffocate, or strangle any person, or shall unlawfully and maliciously shoot at any person, or shall, by drawing a trigger, or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut, or wound any person, with intent, in any of the cases aforesaid, to murder such person, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Shooting or stabbing, cutting, or wounding any Person.

(60) And be it enacted, that if any person unlawfully and maliciously

ciously shall shoot at any person, or shall, by drawing a trigger or in any other manner, attempt to discharge any kind of loaded arms at any person, or shall unlawfully and maliciously stab, cut, or wound any person, with intent, in any of the cases aforesaid, to maim, disfigure, or disable such person, or to do some other grievous bodily harm to such person, or with intent to resist or prevent the lawful apprehension or detainer of the party so offending, or of any of his accomplices, for any offence for which he or they may respectively be liable by law to be apprehended or detained, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon: provided always, that in case it shall appear, on the trial of any person indicted for any of the offences above specified, that such acts of shooting, or of attempting to discharge loaded arms, or of stabbing, cutting, or wounding as aforesaid, were committed under such circumstances that if death had ensued therefrom the same would not in law have amounted to the crime of murder, in every such case the person so indicted shall be acquitted of felony.

1828. 25 July, 9 Geo. 4, cap. 74.

Administering Poison, or procuring the Miscarriage of any Woman.

(61) And be it enacted, that if any person, with intent to procure the miscarriage of any woman then being quick with child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any poison or other noxious thing, or shall use any instrument or other means whatsoever with the like intent, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon; and if any person, with intent to procure the miscarriage of any woman not being or not being proved to be then quick with child, unlawfully and maliciously shall administer to her, or cause to be taken by her, any medicine or other thing, or shall use any instrument or other means whatever with the like intent, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for any term not exceeding fourteen years nor less than seven years, or to be imprisoned for any term not exceeding three years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Concealing the Birth of her Child.

(62) And be it enacted, that if any woman shall be delivered of a child, and shall, by secret burying or otherwise disposing of the dead body of the said child, endeavour to conceal the birth thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for any term not exceeding two years; and it shall not be necessary to prove whether the child died before, at, or after its birth: provided always, that if any woman tried for the murder of her child shall be acquitted thereof,

 it

1828. 25 July, 9 Geo. 4, cap. 74. it shall be lawful for the jury by whose verdict she shall be acquitted to find, in case it shall so appear in evidence, that she was delivered of a child, and that she did, by secret burying or otherwise disposing of the dead body of such child, endeavour to conceal the birth thereof; and thereupon the court may pass such sentence as if she had been convicted upon an indictment for the concealment of the birth.

Sodomy or Rape.

(63) And be it enacted, that every person convicted of the abominable crime of buggery, committed either with mankind or with any animal, shall suffer death as a felon.

(64) And be it enacted, that every person convicted of the crime of rape, shall suffer death as a felon.

Carnal Knowledge of a Girl under Age.

(65) And be it enacted, that if any person shall unlawfully and carnally know and abuse any girl under the age of eight years, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon; and if any person shall unlawfully and carnally know and abuse any girl being above the age of eight years and under the age of ten years, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to be imprisoned for such term as the court shall award.

What sufficient to constitute Rape, &c.

(66) And whereas upon trials for the crimes of buggery and of rape, and of carnally abusing girls under the respective ages hereinbefore mentioned, offenders frequently escape by reason of the difficulty of the proof which has been required of the completion of these several crimes; for remedy thereof be it enacted, that it shall not be necessary, in any of those cases, to prove the actual emission of seed in order to constitute a carnal knowledge, but that the carnal knowledge shall be deemed complete upon proof of penetration only.

Forcible Abduction of a Woman with Intent to marry.

(67) And be it enacted, that where any woman shall have any interest, whether legal or equitable, present or future, absolute, conditional, or contingent, in any real or personal estate, or shall be an heiress presumptive or next of kin to any one having such interest, if any person shall, from motives of lucre, take away or detain such woman against her will, with intent to marry or defile her, or to cause her to be married or defiled by any other person, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be transported to such place as the court shall direct, either for life or for any term not less than seven years, or to be imprisoned for any term not exceeding four years.

Unlawful

Unlawful Abduction of a Girl from her Parents, &c.

(68) And be it enacted, that if any person shall unlawfully take or cause to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to suffer such punishment, by fine or imprisonment, or by both, as the court shall award.

1828. 25 July, 9 Geo. 4, cap. 74.

Stealing a Child under Age.

(69) And be it enacted, that if any person shall maliciously, either by force or fraud, lead or take away, or decoy or entice away, or detain, any child under the age of ten years, with intent to deprive the parent or parents, or any other person having the lawful care or charge of such child, of the possession of such child, or with intent to steal any article upon or about the person of such child, to whomsoever such article may belong; or if any person shall, with any such intent as aforesaid, receive or harbour any such child, knowing the same to have been by force or fraud led, taken, decoyed, enticed away, or detained as hereinbefore mentioned; every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be transported to such place as the court shall direct for the term of seven years, or to be imprisoned for any term not exceeding two years, and if a male to be once, twice, or thrice publicly or privately whipped, (if the court shall think fit,) in addition to such imprisonment: provided always, that no person who shall have claimed to be the father of an illegitimate child, or to have any right to the possession of such child, shall be liable to be prosecuted by virtue hereof, on account of his getting possession of such child, or taking such child out of the possession of the mother, or any other person having the lawful charge thereof.

Bigamy.

(70) And be it enacted, that if any person professing the Christian religion, being married, shall marry any other person during the life of the former husband or wife, whether the second marriage shall have taken place in the East-Indies or elsewhere, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be transported to such place as the court shall direct for the term of seven years, or to be imprisoned for any term not exceeding two years; and every such offence may be dealt with, inquired of, tried, determined, and punished by any of his Majesty's courts of justice within the British territories under the government of the said United Company, within the jurisdiction of which the offender shall be apprehended or be in custody, as if the offence had been actually committed within such jurisdiction: provided always, that nothing herein contained shall extend to any second marriage contracted out of his

Majesty's

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Majesty's dominions by any other than a subject of his Majesty, or to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to be living within that time, or shall extend to any person who at the time of such second marriage shall have been divorced from the bond of the first marriage, or to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction.

Forcing a Seaman on Shore, or refusing to bring him home.

(71) And be it enacted, that if any master of a merchant vessel shall, during his being abroad, force any man on shore, or wilfully leave him behind in any of his Majesty's colonies or elsewhere, or shall refuse to bring home with him again all such of the men whom he carried out with him as are in a condition to return when he shall be ready to proceed on his homeward-bound voyage, every such master shall be guilty of a misdemeanor, and being lawfully convicted thereof, shall be imprisoned for such term as the court shall award; and the said court is hereby authorized to issue one or more commissions, if necessary, for the examination of witnesses abroad; and the depositions taken under the same shall be received in evidence on the trial of every such indictment or information.

Counterfeiting any Deed, &c.

(72) And be it enacted, that if any person shall falsely make, forge, counterfeit, or alter, or shall utter or publish as true, or sell, offer, or dispose of, or put away, knowing the same to be false, forged, counterfeited, or altered, any deed, or any written instrument for the conveyance or transfer of any property or interest in any land, house, or goods, or any share or interest in any public stock or fund established by authority of Parliament or of the said United Company, or of any foreign state, or in any stock or fund of any body corporate, company, or society, or for securing the payment of money, or any will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, or any indorsement or assignment of any bill of exchange or promissory note for the payment of money, or any acceptance of any bill of exchange, or any acquittance or receipt for money, or any goods or valuable thing, or any accountable receipt of any note, bill, or other security for payment of money, or any warrant or order for payment of money, or delivery or transfer of any goods or valuable thing, or any decree, order, record, certificate, minute, affidavit, deposition, or other writing which shall be or purport to have been enrolled, drawn up, filed, entered, issued, or delivered by any court or magistrate in any proceeding, criminal or civil, with intention to defraud any person whatsoever, or any corporation, every such offender shall be guilty of felony, and being thereof convicted,

shall

shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment. 1828. 25 July, 9 Geo. 4, cap. 74.

Counterfeiting current Coin.

(73) And be it enacted, that if any person shall counterfeit any gold or silver coin of any of the territories under the governments o the said United Company in the East-Indies, or any gold or silver coin usually current and received as money in payment in any part of the British territories under the government of the said United Company, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

Uttering counterfeit Coin, or having it in Possession.

(74) And be it enacted, that if any person shall utter or tender in payment, or sell, or give in exchange, or pay or put off to any person, any such false or counterfeited coin as aforesaid, knowing the same to be so false or counterfeited, every such offender, being thereof convicted, shall be adjudged by the court to suffer six months' imprisonment, and find sureties for his good behaviour for six months more, to be computed from the end of the said first six months; and if the same person shall afterwards be convicted a second time of the like offence of uttering or tendering in payment, or selling, or giving in exchange, or paying or putting off, any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, such person shall for such second offence suffer two years' imprisonment, and find sureties for his or her good behaviour for two years more, to be computed from the end of the said first two years; and if the same person shall afterwards offend a third time, in uttering or tendering in payment, or selling, or giving in exchange, or paying or putting off, any such false or counterfeit coin as aforesaid, knowing the same to be false or counterfeit, and shall be convicted of such third offence, he shall be sentenced to transportation for life to such place beyond the seas as the court shall direct.

(75) And be it enacted, that if any person shall have in his custody, without lawful excuse, the proof whereof shall lie on the party accused, any greater number of pieces than five pieces of such false or counterfeit coin as aforesaid, every such person, being thereof convicted upon the oath of one or more credible witness or witnesses before one of his Majesty's justices of the peace, or if there shall be no

justice

1828. 25 July, 9 Geo. 4, cap. 74.

justice of the peace duly qualified to act in the place where such offence shall be committed, before one of the judges of his Majesty's court there, shall forfeit and lose all such false and counterfeit coin, which shall be cut in pieces and destroyed by order of such justice or judge, and shall for every offence forfeit and pay any sum of money not exceeding in value forty sicca rupees, or less than twenty sicca rupees, in the currency of the place in which such offence shall be committed, for every such piece of false or counterfeit coin which shall be found in the custody of such person, one moiety to the informer or informers, and the other moiety to the poor of the presidency, settlement, or place in which such offence shall be committed; and in case any such penalty shall not be forthwith paid, it shall be lawful for such justice or judge to commit the person or persons who shall be adjudged to pay the same, to the common gaol or house of correction, there to be kept to hard labour for the space of three calendar months, or until such penalty shall be paid.

Counterfeiting Licenses or Certificates, or attested Copies.

(76) And be it enacted, that if any person shall counterfeit, erase, alter, or falsify any license authorizing any ship or vessel to proceed to any place in the East-Indies or parts aforesaid, or any license or certificate authorizing any person to go to or reside at any such place, or any attested copy of any such license or certificate, or shall utter or publish as true any such counterfeited, erased, altered, or falsified license, certificate, or attested copy, knowing the same to be counterfeited, erased, altered, or falsified, every such offender, being convicted thereof, shall suffer such imprisonment not exceeding one year, and shall pay such fine not exceeding in value one thousand sicca rupees in the currency of the place in which such offence shall be committed, as the court shall direct.

No Distinction between Grand and Petty Larceny.

(77) And be it enacted, that the distinction between grand larceny and petty larceny shall be abolished; and every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall be subject to the same incidents, in all respects, as grand larceny was before the day of this act taking effect.

Punishments for Simple Larceny.

(78) And be it enacted, that every person convicted of simple larceny or of any felony hereby made punishable like simple larceny, shall, except in the cases hereinafter otherwise provided for, be liable, at the discretion of the court, to be transported to such place as the court shall direct, for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male to be once, twice, or thrice publicly or privately whipped, if the court shall so think fit, in addition to such imprisonment.

Stealing

Stealing public or private Securities for Money, &c. 1828.

(79) And be it enacted, that if any person shall steal any security 25 July, 9 Geo. 4, cap. 74.
whatsoever, entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether established by authority of Parliament or of the said United Company, or of any foreign state, or in any stock or fund of any body corporate, company, or society, or to any deposit in any savings bank, or shall steal any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money or for payment of money, whether of the territories under the government of the said United Company or of any other of his Majesty's dominions, or of any foreign country or state, or shall steal any warrant or order for the delivery or transfer of any goods or valuable thing, every such offender shall be deemed guilty of felony of the same nature and in the same degree, and punishable in the same manner, as if he had stolen any chattel of like value with the share, interest, or deposit to which the security so stolen may relate, or with the money due on the security so stolen or secured thereby and remaining unsatisfied, or with the value of the goods or other valuable thing mentioned in the warrant or order; and each of the several documents hereinbefore enumerated shall, throughout this act, be deemed for every purpose to be included under and denoted by the words "valuable security."

Robbery from the Person, Assaults with intent to Rob, and Demands accompanied with Menaces.

(80) And be it enacted, that if any person shall rob any other person of any chattel, money, or valuable security, every such offender, being convicted thereof, shall suffer death as a felon; and if any person shall steal any such property from the person of another, or shall assault any other person with intent to rob him, or shall with menaces or by force demand any such property of any other person with intent to steal the same, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped, if the court shall so think fit, in addition to such imprisonment.

Obtaining Money, &c. by Threats.

(81) And be it declared and enacted, that if any person shall accuse or threaten to accuse any other person of any infamous crime, as hereinafter defined, with a view or intent to extort or gain from him, and shall, by intimidating him by such accusation or threat, extort or gain from him any chattel, money, or valuable security, every such offender shall be deemed guilty of robbery, and shall be indicted and punished accordingly.

Sending

Sending threatening Letters.

1828. 25 July, 9 Geo. 4, cap. 74.

(82) And be it enacted, that if any person shall knowingly send or deliver any letter or writing, demanding of any person, with menaces, or without any reasonable or probable cause, any chattel, money, or valuable security; or if any person shall accuse or threaten to accuse, or shall knowingly send or deliver any letter or writing accusing or threatening to accuse, any person of any crime punishable by law with death, transportation, or pillory, or of any assault with intent to commit any rape, or of any attempt or endeavour to commit any rape, or of any infamous crime, as hereinafter defined, with a view or intent to extort or gain from such person any chattel, money, or valuable security, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to suchplace as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped, if the court shall so think fit, in addition to such imprisonment.

What deemed an infamous Crime.

(83) And be it enacted, that the abominable crime of buggery, committed either with mankind or with any animal, and every assault with intent to commit the said abominable crime, and every attempt or endeavour to commit the said abominable crime, and every solicitation, persuasion, promise, or threat offered or made to any person, whereby to move or induce such person to commit or permit the said abominable crime, shall be deemed to be an infamous crime within the meaning of this act.

Burglary, capital.

(84) And be it enacted, that every person convicted of burglary shall suffer death as a felon; and it is hereby declared, that if any person shall enter the dwelling-house of another with intent to commit felony, or being in such dwelling-house shall commit any felony, and shall in either case break out of the said dwelling-house in the night-time, such person shall be deemed guilty of burglary.

House-breaking and stealing in a House.

(85) And be it enacted, that if any person shall break and enter any dwelling-house, and steal therein any chattel, money, or valuable security, to any value whatever, or shall steal any such property to any value whatever in any dwelling-house, any person therein being put in fear, or shall steal in any dwelling-house any chattel, money, or valuable security, to the value in the whole of fifty sicca rupees or more, every such offender, being convicted thereof, shall suffer death as a felon.

What

What Buildings are part of a House for capital Purposes.

(86) Provided always, and be it enacted, that no building, although within the same curtilage with the dwelling-house, and occupied therewith, shall be deemed to be part of such dwelling-house for the purpose of burglary, or for any of the purposes aforesaid, unless there shall be a communication between such building and dwelling-house, either immediate or by means of a covered and enclosed passage leading from the one to the other. 1828. 25 July, 9 Geo. 4, cap. 74.

Robbery in any Building not privileged as part of the House, or in a Shop, Warehouse, &c.

(87) And be it enacted, that if any person shall break and enter any building, and steal therein any chattel, money, or valuable security, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof according to the provision hereinbefore mentioned, every such offender, being convicted thereof, either upon an indictment for the same offence, or upon an indictment for burglary, housebreaking, or stealing to the value of fifty sicca rupees in a dwelling-house, containing a separate count for such offence, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

(88) And be it enacted, that if any person shall break and enter any shop, warehouse, or counting-house, and steal therein any chattel, money, or valuable security, every such offender, being convicted thereof, shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Stealing Goods from a Vessel in a Port, River, or Canal.

(89) And be it enacted, that if any person shall steal any goods or merchandize in any vessel, barge, or boat of any description whatsoever, in any port of entry or discharge, or upon any navigable river or canal, or in any creek belonging to or communicating with any such port or canal, or shall steal any goods or merchandize from any dock, wharf, or quay adjacent to any such port, river, canal, or creek, every such offender, being convicted thereof, shall be liable to any of the punishments which the court may award as hereinbefore last mentioned.

Plundering a wrecked Vessel.

(90) And be it enacted, that if any person shall plunder or steal any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, every such offender, being convicted thereof, shall suffer death as a felon: provided always, that when

1828. 25 July, 9 Geo. 4, cap. 74. when articles of small value shall be stranded or cast on shore, and shall be stolen without circumstances of cruelty, outrage, or violence, it shall be lawful to prosecute and punish the offender as for simple larceny.

Shipwrecked Goods in possession of any Person or offered for Sale.

(91) And be it enacted, that if any goods, merchandize, or articles of any kind, belonging to any ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, shall by virtue of a search-warrant, to be granted as hereinafter mentioned, be found in the possession of any person, or on the premises of any person with his knowledge, and such person being carried before a justice of the peace, shall not satisfy the justice that he came lawfully by the same, then the same shall by order of the jnstice be forthwith delivered over to or for the use of the rightful owner thereof; and the offender, on the conviction of such offence before the justice, shall forfeit and pay, over and above the value of the goods, merchandize, or articles, such sum of money, not exceeding two hundred sicca rupees, as to the justice shall seem meet.

(92) And be it enacted, that if any person shall offer or expose for sale any goods, merchandize, or articles whatsoever, which shall have been unlawfully taken, or reasonably suspected so to have been, from any ship or vessel in distress, or wrecked, stranded, or cast on shore as aforesaid, in every such case any person to whom the same shall be offered for sale, or any officer of the customs or excise, or peace officer, may lawfully seize the same, and shall with all convenient speed carry the same, or give notice of such seizure, to some justice of the peace; and if the person who shall have offered or exposed the same for sale, being duly summoned by such justice, shall not appear and satisfy the justice that he came lawfully by such goods, merchandize, or articles, then the same shall by order of the justice be forthwith delivered over to or for the use of the rightful owner thereof, upon payment of a reasonable reward (to be ascertained by the justice) to the person who seized the same; and the offender, on conviction of such offence by the justice, shall forfeit and pay, over and above the value of the goods, merchandize, or articles, such sum of money, not exceeding two hundred sicca rupees, as to the justice shall seem meet.

Stealing, &c. of Records and other Proceedings of Courts of Justice.

(93) And be it enacted, that if any person shall steal, or shall for any fraudulent purpose take from its place of deposit for the time being, or from any person having the lawful custody thereof, or shall unlawfully and maliciously obliterate, injure, or destroy, any record, writ, return, panel, process, interrogatory, deposition, affidavit, rule, order, or warrant of attorney, or any original document whatever, of or belonging to any court of record, or relating to any matter, civil

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or criminal, begun, depending, or terminated in any such court; or any bill, answer, interrogatory, deposition, affidavit, order or decree, or any original document whatsoever, of or belonging to any court of equity, or relating to any cause or matter begun, depending, or terminated in any such court; every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct for any term not exceeding seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; and it shall not in any indictment for such offence be necessary to allege that the article in respect of which the offence is committed is the property of any person, or that the same is of any value.

1828. 25 July, 9 Geo. 4, cap. 74.

Stealing or destroying of Wills, or stealing Writings relating to Real Estate.

(94) And be it enacted, that if any person shall, either during the life of the testator or testatrix, or after his or her death, steal, or for any fraudulent purpose destroy or conceal any will, codicil, or other testamentary instrument, whether the same shall relate to real or personal estate, or to both, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable to any of the punishments which the court may award as hereinbefore last mentioned; and it shall not in any indictment for such offence be necessary to allege that such will, codicil, or other instrument is the property of any person, or that the same is of any value.

(95) And be it enacted, that if any person shall steal any paper or parchment, written or printed, or partly written and partly printed, being evidence of the title or of any part of the title to any real estate, every such offender shall be deemed guilty of a misdemeanor, and being convicted thereof, shall be liable to any of the punishments which the court may award as hereinbefore last mentioned; and in any indictment for such offence it shall be sufficient to allege the things stolen to be evidence of the title or of part of the title of the person, or of some one of the persons, having a present interest, whether legal or equitable, in the real estate to which the same relates, and to mention such real estate or some part thereof; and it shall not be necessary to allege the thing stolen to be of any value.

(96) Provided always, and be it enacted, that nothing in this act contained, relating to either of the misdemeanors aforesaid, nor any proceeding, conviction, or judgment to be had or taken thereupon, shall prevent, lessen, or impeach any remedy at law or in equity which any party aggrieved by any such offence might or would have had if this act had not been passed; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no person shall

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be liable to be convicted of either of the misdemeanors aforesaid, by any evidence whatever, in respect of any act done by him, if he shall at any time previously to his being indicted for such offence have disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit, or proceeding which shall have been *bonâ fide* instituted by any party aggrieved.

Stealing Beasts or Birds kept in Confinement.

(97) And be it enacted, that if any person shall steal any dog, or shall steal any beast or bird, ordinarily kept in a state of confinement, not being the subject of larceny at common law, every such offender, being convicted thereof before a justice of the peace, shall for the first offence forfeit and pay, over and above the value of the dog, beast, or bird, such sum of money, not exceeding two hundred sicca rupees, as to the justice shall seem meet; and if any person so convicted shall afterwards be guilty of any of the said offences, and shall be convicted thereof in like manner, every such offender shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve calendar months, as the convicting justice shall think fit; and if such subsequent conviction shall take place before two justices, they may further order the offender, if a male, to be once or twice publicly or privately whipped after the expiration of four days from the time of such conviction.

Stealing Fixtures from Buildings or from Grounds.

(98) And be it enacted, that if any person shall steal, or rip, cut, or break with intent to steal, any glass or wood-work belonging to any building whatsoever, or any lead, iron, copper, brass, or other metal, or any utensil or fixture, whether made of metal or other material, respectively fixed in or to any building whatsoever, or any thing made of metal fixed in any land being private property, or for a fence to any dwelling-house, garden, or area, or in any square, street, or other place dedicated to public use or ornament, every such offender shall be guilty of felony, and being convicted thereof, shall be liable to be punished in the same manner as in the case of simple larceny; and in case of any such thing fixed in any square, street, or other like place, it shall not be necessary to allege the same to be the property of any person.

Clerks and Servants stealing from their Masters, or embezzling Money, &c. received on their Account.

(99) And be it enacted, that if any clerk or servant shall steal any chattel, money, or valuable security, belonging to or in the possession or power of his master, every such offender, being convicted thereof, shall be liable, at the discretion of the court, to be transported

ported to such place as the court shall direct for any term not exceeding fourteen years, or to be imprisoned for any term not exceeding three years, and if a male, to be once, twice, or thrice publicly or privately whipped, if the court shall so think fit, in addition to such imprisonment. 1828. 25 July, 9 Geo. 4, cap. 74.

(100) And be enacted, that if any clerk or servant, or any person employed for the purpose or in the capacity of a clerk or servant, shall by virtue of such employment receive or take into his possession any chattel, money, or valuable security, for or in the name or on the account of his master, and shall fradulently embezzle the same or any part thereof, every such offender shall be deemed to have feloniously stolen the same from his master, although such chattel, money, or security was not received into the possession of such master otherwise than by the actual possession of his clerk, servant, or other person so employed; and every such offender, being convicted thereof, shall be liable, at the discretion of the court, to any of the punishments which the court may award as hereinbefore last mentioned.

(101) And be it enacted, that it shall be lawful to charge in one indictment, and proceed under the same against the offender for any number of distinct acts of embezzlement not exceeding three, which may have been committed by him against the same master within the space of twelve calendar months from the first to the last of such acts; and in every such indictment, except where the offence shall relate to any chattel, it shall be sufficient to allege the embezzlement to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved, or if he shall be proved to have embezzled any piece of coin or valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, and such part shall have been returned accordingly.

Agents embezzling Money entrusted to them.

(102) And be it enacted, that if any money, or security for the payment of money, shall be intrusted to any banker, merchant, broker, attorney, or other agent, with any direction in writing to apply such money or any part thereof, or the proceeds or any part of the proceeds of such security, for any purpose specified in such direction, and he shall, in violation of good faith, and contrary to the purpose so specified, in anywise convert to his own use or benefit such money, security, or proceeds, or any part thereof respectively, every such offender shall be guilty of a misdemeanor, and being convicted

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convicted thereof, shall be liable, at the discretion of the court, to be transported to such place beyond the seas as the court shall direct, for any term not exceeding fourteen years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; and if any chattel or valuable security, or any power of attorney for the sale or transfer of any share or interest in any public stock or fund established by authority of Parliament or of the said United Company, or of any foreign state, or in any stock or fund of any body corporate, company, or society, shall be entrusted to any banker, merchant, broker, attorney, or other agent, for safe custody, or for any special purpose, without any authority to sell, negociate, transfer, or pledge, and he shall, in violation of good faith, and contrary to the object or purpose for which such chattel, security, or power of attorney shall have been entrusted to him, sell, negociate, transfer, pledge, or in any manner convert to his own use or benefit such chattel or security, or the proceeds of the same, or any part thereof, or the share or interest in the stock or fund to which such power of attorney shall relate, or any part thereof, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to any of the punishments which the court may award as hereinbefore last mentioned.

Not to affect Trustees or Mortgagees, nor to restrain Bankers, &c.

(103) Provided always, and be it enacted, that nothing hereinbefore contained relating to agents shall affect any trustee in or under any instrument whatever, or any mortgagee of any property, real or personal, in respect of any act done by such trustee or mortgagee in relation to the property comprised in or affected by any such trust or mortgage; nor shall restrain any banker, merchant, broker, attorney, or other agent, from receiving any money which shall be or become actually due and payable upon or by virtue of any valuable security according to the tenour and effect thereof, in such manner as he might have done if this act had not been passed; nor from selling, transferring, or otherwise disposing of any securities or effects in his possession upon which he shall have any lien, claim, or demand entitling him by law so to do, unless such sale, transfer, or other disposal shall extend to a greater number or part of such securities or effects than shall be requisite for satisfying such lien, claim, or demand.

Factors pledging for their own use Goods, &c. entrusted to them.

(104) And be it enacted, that if any factor or agent entrusted for the purpose of sale with any goods or merchandize, or entrusted with any bill of lading, warehouse-keeper's or wharfinger's certificate or warrant or order for delivery of goods or merchandize, shall, for his own benefit, and in violation ot good faith, deposit or pledge any such

such goods or merchandize, or any of the said documents, as a security for any money or negotiable instrument borrowed or received by such factor or agent at or before the time of making such deposit or pledge, or intended to be thereafter borrowed or received, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct for any term not exceeding fourteen years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award; but no such factor or agent shall be liable to any prosecution for depositing or pledging any such goods or merchandize, or any of the said documents, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount which at the time of such deposit or pledge was justly due and owing to such factor or agent from his principal, together with the amount of any bill or bills of exchange drawn by or on account of such principal, and accepted by such factor or agent.

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Nothing to lessen any Remedy the aggrieved Party now has.

(105) Provided always, and be it enacted, that nothing in this act contained, nor any proceeding, conviction, or judgment to be had or taken thereupon, against any banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall prevent, lessen, or impeach any remedy, at law or in equity, which any party aggrieved by any such offence might or would have had if this act had not been passed; but nevertheless the conviction of any such offender shall not be received in evidence in any action at law or suit in equity against him; and no banker, merchant, broker, factor, attorney, or other agent as aforesaid, shall be liable to be convicted by any evidence whatever, as an offender against this act, in respect of any act done by him, if he shall at any time previously to his being indicted for such offence have disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit, or proceeding which shall have been *bonâ fide* instituted by any party aggrieved.

Obtaining Money, &c. by false Pretences.

(106) And be it enacted, that if any person shall by any false pretence obtain from any other person any chattel, money, or valuable security, with intent to cheat or defraud any person of the same, every such offender shall be guilty of a misdemeanor, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for any term not exceeding seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the court shall award: provided always, that if upon the trial of any person indicted for a misdemeanor it shall appear that he obtained the property in any manner

1828. 25 July, 9 Geo. 4, cap. 74. amounting to larceny, he shall not by reason thereof be entitled to be acquitted of such misdemeanor, if the offence be in any other respects substantially proved; and no person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

Receivers of stolen Property now to be tried.

(107) And be it enacted, that if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, or obtaining whereof shall amount to a felony, either at common law or by virtue of this act, such person knowing the same to have been feloniously stolen, taken, or obtained, every such receiver shall be guilty of felony, and may be indicted and convicted either as an accessory after the fact, or as for a substantive felony, whether in the latter case the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and every such receiver, howsoever convicted, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct for any term not exceeding fourteen years, or to be imprisoned for any term not exceeding three years, and if a male to be once, twice, or thrice publicly or privately whipped, if the court shall so think fit, in addition to such imprisonment: provided always, that no person, howsoever tried for receiving as aforesaid, shall be liable to be prosecuted a second time for the same offence.

(108) And be it enacted, that if any person shall receive any chattel, money, valuable security, or other property whatsoever, the stealing, taking, obtaining, or converting whereof is made an indictable misdemeanor by this act, such person knowing the same to have been unlawfully stolen, taken, obtained, or converted, every such receiver shall be guilty of a misdemeanor, and may be indicted and convicted thereof, whether the person guilty of the principal misdemeanor shall or shall not have been previously convicted thereof, or shall or shall not be amenable to justice; and every such receiver shall, on conviction, be liable, at the discretion of the court, to be transported to such place as the court shall direct, for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male to be once, twice or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

(109) And be it enacted, that if any person shall receive any chattel, money, valuable security, or other property whatsoever, knowing the same to have been feloniously or unlawfully stolen, taken, obtained, or converted, every such person, whether charged as an accessory after the fact to the felony, or with a substantive felony, or with a misdemeanor only, may be dealt with, indicted, tried, and punished in any place in which he shall have or shall have had

had any such property in his possession, or in any place in which the party guilty of the principal felony or misdemeanor may by law be tried, in the same manner as such receiver may be dealt with, indicted, tried, and punished for receiving such property in the place where he actually received the same.

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Owner of stolen Property prosecuting to Conviction, shall have Restitution of his Property.

(110) And be it enacted, that if any person guilty of any felony or misdemeanor as aforesaid, in stealing, taking, obtaining, or converting, or in knowingly receiving, any chattel, money, valuable security, or other property whatsoever, shall be indicted for any such offence by the owner of the property, or by his executor or administrator, and convicted thereof, in such case the property shall be restored to the owner or his representative; and the court before whom any such person shall be so convicted shall have power to award from time to time writs of restitution for the said property, or to order the restitution thereof in a summary manner; provided always, that if it shall appear, before any award or order made, that any valuable security shall have been *bonâ fide* paid or discharged by some person or body corporate liable to the payment thereof, or being a negotiable instrument, shall have been *bonâ fide* taken or received by transfer or delivery by some person or body corporate for a just and valuable consideration, without any notice, or without any reasonable cause to suspect, that the same had by any felony or misdemeanor been stolen, taken, obtained, or converted as aforesaid, in such case the court shall not award or order the restitution of such security.

Taking a Reward for helping to the recovery or advertising a Reward for the return of Stolen Property, &c.

(111) And be it enacted, that if any person shall corruptly take any money or reward, directly or indirectly, under pretence or on account of helping any person to any chattel, money, valuable security, or other property whatsoever, which shall by any felony or misdemeanor have been stolen, taken, obtained, or converted as aforesaid, every such person so taking money or reward (unless he shall cause the offender guilty of the principal felony or misdemeanor to be apprehended and brought to trial for the same) shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

(112) And be it enacted, that if any person shall publicly advertise a reward for the return of any property whatsoever which shall

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have been stolen or lost, and shall in such advertisement use any words purporting that no questions will be asked, or shall make use of any words in any public advertisement purporting that a reward will be given or paid for any property which shall have been stolen or lost, without seizing or making any inquiry after the person producing such property, or shall promise or offer in any such public advertisement to return to any pawnbroker or other person who may have bought or advanced money by way of loan upon any property stolen or lost, the money so paid or advanced, or any other sum of money or reward for the return of such property, or if any person shall print or publish any such advertisement, in any of the above cases every such person shall forfeit the sum of five hundred sicca rupees for every such offence, to any person who will sue for the same by action of debt, to be recovered with full costs of suit.

Receivers of Property punishable as original Offenders.

(113) And be it enacted, that where the stealing or taking of any property whatsoever is by this act punishable on summary conviction, either for every offence, or for the first and second offence only, or for the first offence only, any person who shall receive any such property, knowing the same to be unlawfully come by, shall, on conviction thereof before a justice of the peace, be liable, for every first, second, or subsequent offence of receiving, to the same forfeiture and punishment to which a person guilty of a first, second, or subsequent offence of stealing or taking such property is by this act made liable.

Setting fire to any Church or Chapel, or to any House, &c. used for Trade.

(114) And be it enacted, that if any person shall unlawfully and maliciously set fire to any church or chapel, or other public place of religious worship whatsoever, or shall unlawfully and maliciously set fire to any house, stable, coach-house, out-house, warehouse, office, shop, mill, barn, or granary, or to any building or erection used in carrying on any trade or manufacture, or any branch thereof, whether the same or any of them respectively shall then be in the possession of the offender, or in the possession of any other person, with intent thereby to injure or defraud any person; every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Destroying Silk or other Goods in the Loom, &c. or Machinery.

(115) And be it enacted, that if any person shall unlawfully and maliciously destroy, or damage with intent to destroy or to render useless, any goods or articles in any stage, process, or progress of manufacture; or shall unlawfully or maliciously cut, break, or destroy, or damage with intent to destroy or to render useless, any loom,

loom, frame, machine, engine, rack, tackle, or implement, whether fixed or moveable, prepared for or employed in manufacturing or preparing any such goods or articles; or shall by force enter into any house, shop, building, or place, with intent to commit any of the offences aforesaid; every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit), in addition to such imprisonment.

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Rioters demolishing, &c. any Church, Chapel, or Building used for Trade, or Machinery.

(116) And be it enacted, that if any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force demolish, pull down, or destroy, or begin to demolish, pull down, or destroy, any church or chapel, or other public place of religious worship whatsoever, or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, barn, or granary, or any building or erection used in carrying on any trade or manufacture, or any branch thereof, or any machinery, whether fixed or moveable, prepared for or employed in any manufacture or in any branch thereof, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Setting fire to, destroying, or otherwise damaging any Ship.

(117) And be it enacted, that if any person shall unlawfully and maliciously set fire to or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, or shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, or shall unlawfully and maliciously set fire to any goods being on board any ship or vessel as cargo, with intent to burn or destroy such cargo or ship, and with intent thereby to prejudice any owner or part-owner of such ship or vessel, or any owner or part-owner of any goods on board the same, or any person that hath underwritten or shall underwrite any policy of insurance upon such ship or vessel, or on the freight thereof, or upon any goods on board the same, every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

(118) And be it enacted, that if any person shall unlawfully and maliciously damage, otherwise than by fire, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same, or to render the same useless, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court

shall

1828. 25 July, 9 Geo. 4, cap. 74. shall direct, for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment.

Doing any Act tending to the Loss of a Ship in Distress, or destroying Goods.

(119) And be it enacted, that if any person shall exhibit any false light or signal, with intent to bring any ship or vessel into danger, or shall unlawfully and maliciously do any thing tending to the immediate loss or destruction of any ship or vessel in distress, or destroy any part of any ship or vessel which shall be in distress, or wrecked, stranded, or cast on shore, or any goods, merchandize, or articles of any kind belonging to such ship or vessel, or shall by force prevent or impede any person endeavouring to save his life from such ship or vessel (whether he shall be on board or shall have quitted the same), every such offender shall be guilty of felony, and being convicted thereof, shall suffer death as a felon.

Destroying any Sea Bank, or Bank of any River, or doing any Damage with intent to obstruct such Navigation.

(120) And be it enacted, that if any person shall unlawfully and maliciously break down or cut down any sea bank or sea wall, or the bank or wall of any river, canal, or marsh, whereby any lands shall be overflowed or damaged, or shall be in danger of being so, or shall unlawfully and maliciously throw down, level, or otherwise destroy any lock, sluice, floodgate, or other work on any navigable river or canal, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment; and if any person shall unlawfully and maliciously cut off, draw up, or remove any piles, chalk, or other materials fixed in the ground, and used for securing any sea bank or sea wall, or the bank or wall of any river, canal, or marsh, or shall unlawfully and maliciously open or draw up any floodgate, or do any other injury or mischief to any navigable river or canal, with intent and so as thereby to obstruct or prevent the carrying on, completing, or maintaining the navigation thereof, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment.

Breaking

Breaking down Dam of a Fishery.

(121) And be it enacted, that if any person shall unlawfully and maliciously break down or otherwise destroy the dam of any fish-pond, or of any water which shall be private property, or in which there shall be any private right of fishery, with intent thereby to take or destroy any of the fish in such pond or water, or so as thereby to cause the loss or destruction of any of the fish, or shall unlawfully and maliciously put any lime or other noxious material in any such pond or water, with intent thereby to destroy any of the fish therein, every such offender, being convicted thereof before a justice of the peace, shall forfeit and pay, over and above the amount of the injury done, such sum of money, not exceeding fifty sicca rupees, as to the justice shall seem meet.

1828. 25 July, 9 Geo. 4, cap. 74.

Killing or maiming Cattle.

(122) And be it enacted, that if any person shall unlawfully and maliciously kill, maim, or wound any cattle or beast of burthen, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct, for life, or for any term of years, or to be imprisoned for any term not exceeding four years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment.

Setting fire to Crops or Stacks of Corn, or Plantations, &c.

(123) And be it enacted, that if any person shall unlawfully and maliciously set fire to any stack of rice, corn, or other grain, pulse, sugar cane, straw, hay, or wood, or to any crop of rice, corn, or other grain, or pulse, or sugar cane, whether standing or cut down, or to any part of a wood, coppice, or plantation of trees or valuable plants, or to any grass, fern, or other like ground produce, wheresoever the same may be growing, every such offender shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the court, to be transported to such place as the court shall direct for any term not exceeding seven years, or to be imprisoned for any term not exceeding two years, and if a male to be once, twice, or thrice publicly or privately whipped (if the court shall so think fit) in addition to such imprisonment.

Malice against Owner of the Property not essential.

(124) And be it enacted, that every punishment and forfeiture by this act imposed on any person maliciously committing any offence, whether the same be punishable upon indictment or upon summary conviction, shall equally apply and be enforced, whether the offence shall be committed from malice conceived against the owner of the property in respect of which it shall be committed, or otherwise.

All

1828. 25 July, 9 Geo. 4, cap. 74.

All Acts, &c. repealed as to England, repealed in like manner in India.

(125) And be it enacted, that all acts and parts of acts which by an act passed in the seventh and eighth years of the reign of his present Majesty, intituled "An Act for repealing various Statutes in England relative to Benefit of Clergy, and to Larceny and other Offences connected therewith, and to malicious Injuries to Property, and to Remedies against the Hundred;" or by an act passed in the present session of Parliament, intituled "An Act for consolidating and amending the Statutes in England relative to Offences against the Person;" are, as to that part of the United Kingdom called England, and as to offences committed within the jurisdiction of the Admiralty of England, repealed, except as therein mentioned, shall, from and after the said first day of March one thousand eight hundred and twenty-nine, as to all persons, matters, and things over whom or which the jurisdiction of any of his Majesty's courts of justice erected within the British dominions under the government of the said United Company extends, be repealed, except so far as any of the said acts may repeal the whole or any part of any other acts, and except as to offences and other matters committed or done before or upon the day of this act taking effect, which shall be dealt with and punished as if this act had not been passed.

(126) And be it enacted, that so much of an act passed in the thirty-ninth and fortieth years of the reign of his late Majesty King George the Third, intituled "An Act for establishing further Regulations for the Government of the British Territories in India, and the better administration of Justice within the same," as relates to the transportation of offenders; and so much of an act passed in the fifty-third year of the same reign, intituled "An Act for continuing in the East-India Company for a further term the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories and the better Administration of Justice within the same; and for regulating the Trade to and from the Places within the Limits of the said Company's Charter," as relates to the stealing or taking by robbery of securities for payment of money, to the falsely making, forging, counterfeiting, or altering, or to uttering, publishing, selling, offering, disposing of or putting away, knowing the same to be false, forged, or counterfeited, any writings, licenses, certificates, or attested copies thereof, or to counterfeiting coin, or to uttering, tendering in payment, selling, giving in exchange, paying, putting off, or having in possession, forged or counterfeit coin; and so much of an act passed in the fourth year of the reign of his present Majesty, intituled "An Act to consolidate and amend the Laws for punishing Mutiny and Desertion of Officers and Soldiers in the Service of the East-India Company, and to authorize Soldiers and Sailors in the East-Indies to send and receive Letters at a reduced Rate of Postage," as requires that the oaths to be taken by members of general or other courts-martial,

martial, or courts of requests composed of military officers, shall be taken upon the holy Evangelists; shall, from and after the day of this act taking effect, in like manner and with the like exceptions, be and the same is hereby repealed.

1828. 25 July, 9 Geo. 4, cap. 74.

Persons employed by his Majesty amenable to Courts in India.

(127) And be it enacted, that all persons, whether British subjects or others, employed by or in the service of his Majesty, shall be held subject and amenable to the criminal jurisdiction of his Majesty's courts of justice, erected or to be erected within the British territories under the government of the said India Company, for all crimes and offences to be by them committed on or from and after the first day of March one thousand eight hundred and twenty-nine, in the same manner as persons employed by or in the service of the said United Company are now by law subject and amenable to the said jurisdiction.

ECCLESIASTICAL ESTABLISHMENT.

The ecclesiastical establishment in India is described in the Analysis, page 331.

Bishop Middleton, who went to India in 1814, died at Calcutta on the 8th July 1822, and was succeeded by Bishop Heber, who reached Bengal in the month of October 1823. From the month of June 1824 to the end of that year, Bishop Heber was engaged in visiting the several European stations in Bengal and the upper provinces of Hindostan. In January 1825 he proceeded to the stations under the Bombay government, including Poonah, Kairah, Baroda, Baroach, Surat, and Guzerat. He subsequently visited Ceylon, and returned to Calcutta, from whence in 1826 he proceeded to Madras and Trichinopoly. At the latter place, on the morning of the 3d April, his Lordship was seized with an apoplectic fit, on entering a bath which had been prepared for him, and falling forwards into the water in a state of insensibility, was speedily suffocated.

The Rev. Dr. James was appointed to the bishopric in April 1827. His Lordship sailed for India in the ship *Mary Anne*, in June following.

The Rev. William Hawtayne succeeded the Rev. John Barnes as archdeacon at Bombay, in May 1826. The Rev. E. Vaughan resigned the archdeaconry of Madras in 1828. His successor is not yet known.

INSOLVENT DEBTORS.

VARIOUS acts have been passed from time to time for the relief of insolvent debtors in England and Ireland. Many of the extensive provisions in favour of the debtors were found to be extremely prejudicial to the interests of the creditors, and led to the presentation of numerous petitions to Parliament, praying some revision of those laws. A committee of the House of Commons was accordingly appointed in March 1819, to take into consideration the state of the law, and the several acts passed in the 53d, 54th, and 56th years of his late Majesty's reign.

The committee made their report in the month of May, and stated that, in submitting the result of their inquiry, they felt called upon, in the first place, to express their most decided approbation of the principle on which they conceived the laws for the relief of insolvent debtors were founded: the principle being, that a debtor ought to be released from custody on making a *bonâ fide* division of all his property amongst his creditors, except in cases where the conduct of the debtor appears to have been fraudulent. In the month of January last a draft of a bill which had been sent home by the judges in India, was transmitted to the Court of Directors by Mr. Williams Wynn, and referred by the Court to the Company's law officers, for the pursose of their reporting on the measure generally, as applicable to India. The most anxious attention was given to the subject, and as it was proposed to incorporate some of the provisions of the bankrupt act, the opinions of professional gentlemen immediately connected with the practice of the insolvent court and that of bankrupts, were taken on the various points contemplated in the proposed bill, which was sufficiently matured to enable Mr. Williams Wynn on the 22d May, to give notice to the House of his intention to move for leave to bring in the same, which leave was obtained on the 4th June, when

when Mr. Wynn pointed out the urgent necessity that existed for such a measure, and the great difficulty frequently occasioned by the existence of settlements, or sometimes merely factories, belonging to other powers, in the centre of the Btitish territories. Thither no writs of course run, and a debtor has only to escape there and he may set his creditors at defiance. It was therefore proposed, among other numerous provisions, that this absconding should of itself be considered as an act of bankruptcy, and that it should be in the power of the court to treat the party escaping as an insolvent debtor, and to direct an assignment of his property for the benefit of his creditors. The bill was passed into an act on the 19th July 1828.

After reciting that divers good laws have of late years been established within the United Kingdom of Great Britain and Ireland for the relief of insolvent debtors, and that it is right that relief should be given also to insolvent debtors in some parts of the East-Indies, it proceeds to enact, that there shall be holden within the respective limits of the towns of Calcutta, Madras, and Bombay, separate courts for the relief of insolvent debtors, at Calcutta once a month at least, and at Madras and Bombay as often as necessary; such court to be held before one of the judges of his Majesty's Supreme Courts at those presidencies, the practice of which courts is then provided for with a great deal of minute detail, founded chiefly on the provisions of the acts passed for the same purpose, with reference to this country. The act contains one class of provisions quite peculiar to itself: it declares the adjudication of an act of insolvency in India to be evidence of an act of bankruptcy, on which a commission may be sued out here, and proceeds to lay down with much care and precision the course of proceeding to be adopted, with a view to the affording equal justice to the English and the Indian creditor.

The principal officers of the respective courts for the relief of insolvent debtors are to cause notices to be inserted in the gazettes of the several presidencies, of every petition for relief under this act, and of every adjudication of an act of insolvency, and the chief secretary of the government is to transmit to the Court of Directors, without delay, two or more copies of such gazette which shall contain any such notice, who without delay,

after

after the receipt, are to cause notice to be inserted in the London Gazette.

It would be foreign to the purpose of this work to enter minutely into the details of the provisions of the bill in question, but there is no doubt that their practical utility will justify the great pains and labour which have been bestowed upon them, and that they will be found to give to India most, if not all of the benefits of the bankrupt laws, without the accompaniment of their cumbrous and expensive machinery.

LAW.

Courts for the Relief of Insolvent Debtors.

(1) Be it enacted, that from and after the first day of March one thousand eight hundred and twenty-nine, there shall be holden, within the respective limits of the towns of Calcutta, Madras, and Bombay, separate courts for the relief of insolvent debtors, which shall be courts of record, and shall be styled "The Courts for the Relief of Insolvent Debtors;" and that his Majesty's Supreme Courts of Judicature at Calcutta, Madras, and Bombay respectively, shall from time to time appoint such of their officers, or if the officers of such Supreme Courts shall be found insufficient, such additional persons as may be necessary to transact the business of such courts, and to act as common assignees, examiners, and ministerial officers of such courts; and it shall be lawful for the said courts for the relief of insolvent debtors to administer oaths, and examine parties and witnesses upon oath or solemn affirmation; and the said courts, within and throughout the British territories under the government of the United Company of Merchants of England trading to the East-Indies, shall have the like powers of issuing commissions to take evidence, and of enforcing the attendance of witnesses, and the production of books, papers, and writings, and of summoning, examining, and enforcing the attendance of any insolvent debtor, or his wife, or any other person who may be able to give information respecting the debts, estates, or effects of any such insolvent debtor, as are now possessed by the said Supreme Court, or as are possessed by commissioners of bankrupt, in case of bankruptcy, for the purpose of summoning, examining, and enforcing the attendance of bankrupts and their wives, and other persons, under and by virtue of an act passed in the sixth year of the reign of his present Majesty, and intituled, an Act to amend the Laws relating to Bankrupts; and the said courts for the relief of insolvent debtors shall also have the power of fining in a summary way, or of committing to the common gaol, all persons guilty of contempt of court, and of fining in a summary way and of removing any of their officers who shall be guilty of negligence or misconduct; but the said courts for the

1828. 19 July. 9 Geo. 4. c. 73.

1828. 19 July, 9 Geo. 4. cap. 73.

the relief of insolvent debtors shall not have the power of awarding costs against any person, except in cases in which it is expressly permitted by this act, or in which it shall be expressly permitted by some rule which shall be made by the said Supreme Courts respectively, for the purposes and in the manner hereinafter stated: provided always, that the said courts for the relief of insolvent debtors shall not summon or examine any native of the East-Indies, otherwise than by commission, in any case in which such summoning or examination shall appear to the said court to be repugnant to the customs and usages of the country.

Practice of the Court.

(2) And be it further enacted, that a court for the relief of insolvent debtors shall be holden once a month at least throughout the year, and oftener if need be, in Calcutta, and as often as may be found necessary within the towns of Madras and Bombay, by any one judge of the said Supreme Courts of Judicature respectively; and it shall be lawful for the said courts for the relief of insolvent debtors to adjourn from time to time as they may think fit, and for the said courts, and the said Supreme Courts respectively, to be sitting at one and the same time, and severally to act and proceed in the exercise of their respective powers; and every advocate or attorney of the said Supreme Courts at Calcutta, Madras, and Bombay respectively, shall be admitted to practice in the way of his profession in the said courts for the relief of insolvent debtors respectively, and no other persons shall practice as advocates or attornies in the said courts for the relief of insolvent debtors; and the said Supreme Courts of Judicature respectively shall have power from time to time to establish rules to regulate the proceedings of the courts for the relief of insolvent debtors to be holden within their respective jurisdictions, and especially to prescribe in what manner notice shall be given to the creditors of parties applying for relief under this act, and in what cases, besides those mentioned in this act, costs may be awarded; and shall prepare, and cause to be sealed with their respective seals, a sufficient and proper list of fees to be charged and received by the officers of the courts for the relief of insolvent debtors, and shall certify under their respective seals, and transmit to the President of the Board of Commissioners for the Affairs of India, copies of such rules and lists of fees, to be laid before his Majesty for his royal approbation, correction, or revision, and other copies of the same shall at all times be fixed in conspicuous places in the courts for the relief of insolvent debtors; and no other fee or gratuity shall be received or taken by any officer or attorney of such last-mentioned courts, on any pretence whatsoever, except such as shall be specified in such lists.

Evidence to be taken down in Writing, if required.

(3) And be it further enacted, that any person who shall be interested

interested in any petition for relief which shall be presented by any insolvent person to any of the said courts for the relief of insolvent debtors, or in any petition which shall be presented against any trader to any of the said courts, praying an adjudication of insolvency, as hereinafter mentioned, or in any proceeding of any of the said courts respecting any such petition, upon depositing with the proper officer of the court a sum of money of which the amount shall be fixed by the court, may require that the whole of the evidence, relating to any proceeding in which he has an interest may be taken down in writing by a sworn officer of the court, and the same shall be done accordingly; and in case the party who shall have so required such evidence to be taken down in writing shall not within one calendar month thereafter present his or her petition of appeal as is hereinafter directed, it shall be lawful for the court in which such evidence shall have been so taken down in writing as aforesaid to pay the reasonable costs and expenses thereof out of the money which shall have been so deposited as aforesaid, returning the overplus, if any, to the person who shall have deposited the same. 1828. 19 July, 9 Geo. 4, cap. 73.

Parties aggrieved may petition Supreme Court, &c.

(4) And be it further enacted, that it shall be lawful for any person who shall think himself aggrieved by any adjudication, order, or proceeding of any such court for the relief of insolvent debtors, to present, within one calendar month thereafter, a petition to the Supreme Court of Judicature of the presidency where such court for the relief of insolvent debtors shall be holden, or if such Supreme Court of Judicature shall not be sitting, then to present such petition to one of the judges thereof; and it shall be lawful for the court or judge to which or to whom any such petition shall be presented to order that the whole of the evidence, if any, which shall have been so taken down in writing as aforesaid, and the minutes and records of the proceedings of which complaint shall have been made, shall be brought before it; and the said last-mentioned court shall inquire into the matter of the petition and of such proceedings and evidence, and shall make such order thereon as to the same court shall seem meet and just, and shall thereby direct by whom and in what manner the costs of such petition, and of the proceedings which shall have been had thereon, and of the taking down of any such evidence in writing, and of the proceedings of which complaint shall have been made, shall be paid: and such order shall be final and conclusive as to all parties, and shall be compulsory and binding upon the court in which such proceedings so complained of shall have been had.

Debtors may petition the Court for Relief.

(5) And be it further enacted, that after the time hereinbefore appointed

1828. 19 July, 9 Geo. 4, cap. 73. appointed for this act to take effect, any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, for debt, damage, costs, or money which such person is solely, or jointly with any other or others, liable to pay, or for contempt of any court whatsoever, by the non-payment of money only, may, at any time within fourteen days next after the commencement of the actual custody of such debtor, or afterwards, if the court shall in any case think it reasonable and proper to permit the same, apply by petition to the court for the relief of insolvent debtors within the presidency where such insolvent debtor shall then be; and in such petition there shall be stated the place wherein the prisoner shall be then confined, the time when he or she shall have been first charged in custody, and the parties by whom, and the reasons and the amount for which, he or she shall at the time of presenting such petition be detained: and the said petition shall be subscribed by the prisoner with his name or mark, and shall forthwith be filed in the court to which it shall be presented; and if any person so imprisoned as aforesaid shall be jointly indebted, it shall be lawful for them to apply jointly by petition, in such manner as is hereinbefore mentioned.

Insolvent Persons delivering Property to a certain Value, may petition without being in Prison.

(6) And be it further enacted, that if any person or persons being so indebted as aforesaid, and who shall reside within the jurisdiction of either of the said Supreme Courts at Calcutta, Madras, or Bombay, shall find that he, she, or they is or are in insolvent circumstances, but that he, she, or they has or have some estate and effects of the amount of half his, her, or their debts, of which instant possession might be given to an assignee, it shall be lawful for such person or persons, without being in prison, to apply, jointly or severally, as the case may be, by petition to the court for the relief of insolvent debtors to be holden at those places respectively, and the petition or petitions shall be subscribed by the insolvent or insolvents with his, her, or their name or names, and shall be forthwith filed in the said court.

Petitioners jointly may be required to file sole Petitions.

(7) And be it further enacted, that when any such joint petition as is afore-mentioned shall be presented to any court for the relief of insolvent debtors, it shall be lawful for the court, if it shall see fit, to require and compel each of the insolvents to file a sole petition also, in order that upon one petition, and by the proceedings to be thereon taken, the court may dispose of the estates and effects belonging to all the insolvents jointly, and that upon the other petitions, and the proceedings to be thereon taken, it may dispose of the estates and effects belonging to each insolvent separately; and if

if there shall be any residue of the joint estate and effects after payment of the joint debts, such residue shall be duly divided and paid over to the several assignees who shall have been appointed upon the sole petitions of those to whom such joint estate and effects shall have belonged, and in like manner if there shall be any residue of the separate estate and effects of any of the insolvents after the payment of his or her separate debts, it shall be paid over to the assignee or assignees who shall have been appointed upon the joint petition. 1828, 19 July, 9 Geo. 4, cap. 7.

Fines, &c. not to be deemed Debts.

(8) Provided always, and be it further enacted, that no debt due to our Sovereign Lord the King, nor any fine, penalty, or forfeiture whatsoever, nor any recognizance whereby a debt is acknowledged to the King, nor any debt due on account of any fine, penalty, or forfeiture, nor any estreat, shall be deemed or taken to be such a debt or debts as to entitle any person or persons to petition as is before-mentioned, nor shall any person be entitled to receive any dividend for the same under this act, nor shall any such fines, penalties, forfeitures, recognizances, debts, or estreats, be in any way discharged or affected by any thing done under this act, otherwise than they might and would have been discharged or affected if this act had not been passed.

On presenting Petitions, Assignments to be made to Persons appointed by the Court.

(9) And be it further enacted, that the person or persons who shall present any such petition as is hereinbefore mentioned shall, at the time of presenting the same, execute an assignment to the common assignee, in such manner and form as the court shall direct, of all his, her, or their real and personal estate and effects, rights, dues, claims, choses in action, and interests, which he, she, or they shall then have or be entitled to, or which may in any way come to or be acquired by them before the court shall have made its final order in the matter of his, her, or their petition.

Acts of Insolvency on which Creditor may petition.

(10) And be it enacted, that if any person who by an act passed in the sixth year of the reign of his present Majesty, intituled an Act to amend the Laws relating to Bankrupts, or by any act hereafter to be passed, shall be deemed a trader liable to become bankrupt, having been arrested or committed to prison for debt, or on any attachment for non-payment of money, shall, upon such or any other arrest or commitment for debt, be in prison for twenty-one days, or having been arrested or committed to prison for any other cause, shall lie in prison for twenty-one days after any detainer for debt lodged against him and not discharged; or if any such person shall depart from

1828. 19 July 9 Geo. 4, cap. 73.

from within the limits of the jurisdiction of any of the said supreme courts with intent to defeat or delay his or her creditors, it shall be lawful of any creditor to whom such person shall be indebted to the amount of one thousand sicca rupees, or for any two creditors to whom such person shall be indebted to the amount of one thousand five hundred sicca rupees, or for any three or more creditors to whom such person shall be indebted to the amount of two thousand sicca rupees, to present a petition to the Insolvent Debtors Court of the presidency within which such person shall have been imprisoned or have resided previously to such departure as aforesaid, stating the amount of the debt or debts due to such creditor or creditors from such person, and the nature of his trading, and such act of lying in prison or departure as aforesaid, and praying that such court would proceed in like manner as if such person had petitioned such court for relief under this act; whereupon such court shall inquire into the truth of such petition, and if such court shall be satisfied thereof, such court shall adjudge the same to be true, and that such person has committed an act of insolvency

Powers of the Court on Adjudication.

(11) And be it enacted, that upon such adjudication being made, such court shall be invested with the same powers and authorities with which such court would have been invested or might have exercised in case such insolvent had presented a petition for relief under this act, and all the real and personal estate and effects, rights, dues, claims, choses in action, and interests, which such insolvent shall then have or be entitled to, or which may in any way come to or be acquired by such insolvent before the court shall have made its final order in the matter of such petition, shall, by force of such adjudication, be vested in the common assignee of the said court, in like manner to all intents and purposes as if such insolvent had assigned the same under the directions of the said court: provided always, that in all cases where any adjudication of an act of insolvency shall have been pronounced by any court for the relief of insolvent debtors, it shall be lawful for such court, upon the petition of any person so adjudged to have committed an act of insolvency, complaining of such adjudication, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been pronounced, to appoint an early day for hearing such petition of complaint, and on such day, or on any future day to which such hearing may be adjourned, to hear such creditor or creditors and such complainant, by themselves or their counsel respectively, and to examine the evidence to be adduced by them respectively, and thereupon to revoke or confirm such adjudication.

Filing a Petition an Act of Bankruptcy.

(12) And be it enacted, that the filing of every petition by an insolvent debtor in any of the said courts for relief under this act, whether

whether such insolvent shall be in custody or not, and every such adjudication of an act of insolvency, shall be accounted and adjudged conclusive evidence of an act of bankruptcy committed by such insolvent, from the time of filing such petition or of such adjudication respectively, if such insolvent shall be a person subject to the laws then in force respecting bankrupts; and any creditor or creditors of such insolvent, whose debt or debts shall be of such sufficient amount to entitle him or them by law to petition for a commission of bankrupt, shall at any time within two months after notice of such petition or adjudication shall have been given in the London Gazette, as hereinafter directed, be at liberty to sue out a commission of bankrupt, in that part of the United Kingdom called England, against such insolvent, under which commission all such proceedings may be had and taken as are authorized and directed, or shall be authorized and directed, by the provisions of an act passed in the sixth year of the reign of his present Majesty, intituled an Act to amend the Laws relating to Bankrupts, or by any other act or acts hereafter to be passed respecting bankrupts, except as hereinafter provided.

1828. 19 July, 9 Geo. 4, cap. 73.

Commission may issue on Proof of Debt by a Creditor.

(13) And be it further enacted, that when any creditor or creditors resident within the limits of the charter of the said United Company shall be desirous of suing out any such commission of bankrupt against any such insolvent, it shall be lawful for such person or persons to make proof of his, her, or their debt or debts before such court for the relief of insolvent debtors, which proof, if satisfactory to such court, shall be certified under the seal of such court; and the certificate thereof, on proof being made that the same is sealed with the seal of such court, shall be sufficient evidence of a petitioning creditor's debt to warrant the issuing of such commission, and also to authorize the commissioners under such commission to proceed thereon.

Assignees protected for certain Acts.

(14) Provided always, and be it further enacted, that in case of the issuing of any such commission of bankrupt against any such insolvent, such commission shall not in any manner affect, invalidate, or make void any of the proceedings of any court for relief of insolvent debtors, nor any of the acts or proceedings of any assignee or assignees appointed by such court, respecting any property or interest whatsoever of such insolvent, real or personal, within the limits of the charter of the said United Company, nor shall the assignee or assignees appointed under any such commission acquire any right or title to take possession of, demand, sue for, or recover any property or interest whatsoever, real or personal, of such insolvent, within the limits aforesaid; but the assignee or assignees appointed by such court for the relief of insolvent debtors shall

 continue,

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continue, and shall, notwithstanding such commission of bankrupt, have full power and control over all the real and personal property of such insolvent within the limits aforesaid, and the distribution and management thereof, as effectually as if such commission of bankrupt had not issued; nevertheless it shall be the duty of any assignee or assignees appointed by such court, and the assignee or assignees chosen under the said commission, equally to come to account with each other, so as in the end that a dividend shall be rateably and proportionably made among all the creditors of the said insolvent, whether resident within the limits aforesaid or in the United Kingdom of Great Britain and Ireland.

Creditors whose Debts have been allowed to receive equal Dividend with others.

(15) And be it further enacted, that all the creditors of any such insolvent whose debts shall have been allowed in any court for the relief of insolvent debtors, shall be admitted as creditors under any such commission of bankrupt, for the purpose of receiving an equal dividend upon the estate of such bankrupt with the creditors who shall have proved their debts under such commission; and in like manner all creditors whose debts shall have been duly proved under any such commission of bankrupt, shall be admitted as creditors in such court for the relief of insolvent debtors, for the purpose of receiving an equal dividend upon the estate of such insolvent with the creditors whose debts shall have been allowed in such court.

Surrender of Persons declared Bankrupt.

(16) Provided always, and be it enacted, that when any such insolvent shall be declared bankrupt upon the sole ground of his having filed such petition for relief in the said court for relief of insolvent debtors, or of such adjudication of an act of insolvency as aforesaid, he shall not be required to surrender or be liable to any penalty for not surrendering himself to be examined under his commission, until forty-two days after he shall have come into some part of the said United Kingdom of Great-Britain and Ireland.

Certificate of Bankrupt how to be signed.

(17) And be it enacted, that it shall be lawful for any creditors of such insolvent, who shall have duly proved their debts under any such commission as aforesaid, and for the commissioners under such commission, if they shall be satisfied with such examination of such insolvent as shall have been had in any court for the relief of insolvent debtors, to sign the certificate of such bankrupt; and such certificate shall have the same force and effect in all places situate without the limits aforesaid, and in respect of all debts due to persons resident at any such places without the limits aforesaid, at the

the date of such certificate, as if the same had been duly signed in the usual way, after such bankrupt had duly surrendered and passed his last examination. 1828. 19 July, 9 Geo. 4, cap. 73.

Choice of Assignees.

(18) Provided always, and be it further enacted, that no creditor of such insolvent who shall be resident within the limits aforesaid, excepting only the petitioning creditor or creditors, in case he, she, or they shall be so resident, shall be entitled to vote in the choice of the assignee or assignees to be appointed under any such commission of bankrupt or otherwise, respecting the matters to be transacted under such commission of bankrupt, nor shall be reckoned among the creditors of the bankrupt in number or value whose signature is required by law to the certificate of such bankrupt.

Partnership Creditors.

(19) Provided also, and be it enacted, that in all cases where any one member of a partnership to which any such insolvent shall be indebted shall be resident within the limits aforesaid, such partnership shall be accounted and taken as a creditor resident in the East-Indies, for the purposes of this act.

Notices to be inserted in the Gazettes.

(20) And be it further enacted, that the principal officer of the respective courts for relief of insolvent debtors shall cause notices to be inserted in the Gazettes of the respective presidencies within which such courts shall be holden, of every petition which shall be filed in any of the said courts by any insolvent for relief under this act, and of every such adjudication of an act of insolvency, and of every confirmation or revocation thereof, forthwith after the filing such petition or pronouncing such adjudication, or such confirmation or revocation thereof respectively; and that the chief secretary of the Government of the said presidencies respectively shall, without delay, transmit to the Court of Directors of the said United Company, by different ships, two or more copies at least of every such Gazette which shall contain any such notice as aforesaid, who shall, without delay, after the receipt thereof, cause such notice to be inserted in the London Gazette.

Production of Gazette containing such Notice sufficient Evidence.

(21) And be it enacted, that the production of the London Gazette containing any such notice as aforesaid shall be deemed and taken by all commissioners of bankrupt, and all courts whatsoever, to be sufficient evidence of the filing of the petition of such insolvent in such court for relief of insolvent debtors, and of such adjudication of an act of insolvency, and of such confirmation or revocation thereof.

When

When no Commission of Bankruptcy shall issue.

1828. 19 July, 9 Geo. 4, cap. 73. (22) Provided always, and be it further enacted, that in all cases where an insolvent petitioning any such court for relief shall be possessed of any real or personal estate in the United Kingdom of Great Britain and Ireland, and no commission of bankrupt shall be sued out as hereinbefore mentioned, it shall be lawful for the assignee or assignees of the said insolvent, appointed by any such court, to proceed, either by himself or themselves, or by any person duly authorized for that purpose by power of attorney, to get possession of such real and personal estate, and to dispose of the same in the most beneficial manner, and to administer the proceeds thereof among the creditors of the said insolvent under the provisions of this act.

Part of the Insolvent's Effects may be left in his Possession.—After Assignment made, Insolvent to put Assignees into possession of Estate.

(23) And be it enacted, that after the making of any such assignment as is hereinbefore directed, or after any such adjudication of insolvency as aforesaid, it shall be lawful for any such court to direct that so much of the wearing apparel, household furniture, working tools, and other necessaries of the insolvent or insolvents, and of his, her, and their family or families, as shall be fitting and suitable to his, her, or their condition and circumstances, may be left in his, her, or their possession until the further order of the court, not exceeding in value in the whole the sum of one thousand sicca rupees: provided always, that when any person or persons shall have executed any such assignment without being in custody, he, she, or they shall be required forthwith to put the assignee or assignees into possession of his, her, or their estate and effects of the amount of half their debts; and the assignee or assignees who shall be so put into possession shall, according to the best of his or their knowledge and belief, forthwith certify the same to the court by which he or they shall have been appointed; and until such assignee or assignees shall have so certified, no such order as is hereinbefore mentioned, for leaving part of the effects of such insolvent or insolvents in his, her, or their possession, shall be made, nor any other step taken towards granting the prayer of the petition of the insolvent or insolvents, or any part thereof.

Insolvent protected from Arrest.

(24) And be it enacted, that when any assignee or assignees shall have so certified as is last hereinbefore mentioned, it shall be lawful for the said courts for relief of insolvent debtors at Calcutta, Madras, and Bombay respectively, to grant and deliver, to the person or persons by whom such estate or effects shall have been given up, a certificate or certificates of his, her, or their having delivered to his, her, or their assignee or assignees, property which is believed to be of the amount of half their debts; and every such last-mentioned certificate shall,

shall, until the said courts respectively shall make order to the contrary, have the effect of protecting the person to whom it shall be so given from being arrested for debt within the limits of the towns of Calcutta, Madras, and Bombay respectively, or any other place within the limits of the charter of the said United Company to which such person shall resort with leave of the said courts respectively, signified in writing; and if any such person shall, contrary to the aforesaid provisions, be arrested for debt, and the officer who shall have arrested him or her shall, after having seen such last-mentioned certificate and leave, refuse to discharge such person, he shall forfeit to the same person fifty sicca rupees for every day he shall detain him or her, which sum or sums may be recovered by action of debt in any of his Majesty's courts of record within the jurisdiction of which the arrest shall have been made, and such action shall be brought in the name of the person so detained, who, if he shall recover in such action, shall also have full costs of suit.

1828. 19 July, 9 Geo. 4, cap. 73.

Court may discharge Debtors from Prison on payment of half their Debts.

(25) And be it enacted, that when any person or persons being in custody shall have executed any such assignment as is hereinbefore mentioned, if he, she, or they shall in like manner put the assignee or assignees to whom the assignment shall have been made into possession of his, her, or their estate or effects of the amount of half their debts, and the assignee or assignees of such prisoner or prisoners shall have certified the same to the court for relief of insolvent debtors, in such manner as hereinbefore is mentioned, and the court shall be satisfied of the truth thereof, it shall be lawful for such court to discharge such person or persons from custody, and to grant and deliver to him, her, or them the like certificate and leave, which shall have the like consequences and effects in protecting him, her, or them from being arrested for debt: provided always, that it shall at all times be lawful for such court to revoke and annul such certificate or leave, if it shall appear to such court that such certificate or leave hath been unfairly obtained or improperly used.

General Effect of Assignment.

(26) And be it enacted, that every such assignment as is hereinbefore mentioned shall have the effect of conveying or transferring to and of vesting in the assignee or assignees, who shall have been appointed by the court and named in the assignment, the whole estate and effects, real and personal, and all rights, duties, claims, choses in action, interests, and property whatsoever, which at the time of executing the assignment shall belong to the insolvent or insolvents, either solely or jointly with any other person or persons, or which shall come to or be required by him, her, or them, or to which he shall be or become entitled in reversion, remainder, or expectancy, before the court shall have made an order for the discharge of such insolvent or insolvents

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insolvents from all liability as hereinafter mentioned, and the effect also of entitling and empowering the assignee or assignees to give such discharges for debts due to such last-mentioned person or persons as may be requisite; and every such assignment as is hereinbefore mentioned shall be in trust for the benefit, in proportion to their respective dues and just claims, of all the creditors of the person or persons executing the assignment.

Offices, Appointments, and Benefices.

(27) And be it further enacted, that if any insolvent at the time of making any such assignment as is hereinbefore mentioned shall hold any public office, appointment, or benefice, civil, military, or eccesiastical, under the crown of the United Kingdom if Great Britain and Ireland, or under the said United Company, and if his interest in such office or appointment shall be such that he might lawfully sell the same, such interest for the purpose of sale shall, by the asssignment, be transferred to and vested in the assignee or assignees in trust for the benefit of his creditors, and if his interest therein shall not be such as he might lawfully sell, then it shall be lawful for the said court to order the said insolvent to pay such proportion of his receipts therefrom to his assignee or assignees as the said court shall think just and right.

Voluntary Preference fraudulent and void.

(28) And be it enacted, that if any insolvent who shall file his or her petition for his or her discharge under this act, or if any trader who shall be adjudged to have committed an act of insolvency on the petition of any such creditor or creditors as aforesaid, being in insolvent circumstances, shall voluntarily convey, assign, transfer, charge, deliver, or make over any estate, real or personal, security for money, bond, bill, note, money, property, goods, or effects whatsoever, to any creditor or other person whomsoever, or to any person in trust for or to or for the use, benefit, or advantage of any creditor or other person whomsoever, every such conveyance, assignment, transfer, charge, delivery, and making over, if made within two months before the date of such petition, or with the view or intention, by the party so conveying, assigning, transferring, charging, delivering, or making over, of petitioning the said court for his or her discharge from custody under this act, or of committing such act of insolvency, shall be deemed and is hereby declared to be fraudulent and void, as against the common or other assignee or assignees of such prisoner appointed under this act.

No Distress for Rent to be made after Assignment.

(29) And be it enacted, that after any such assignment shall be made by any petitioner or petitioners, as hereinbefore mentioned, or after any such adjudication of an act of insolvency as aforesaid, no distress

distress for rent due before the filing of such petition or adjudication shall be made upon the goods or effects of any such insolvent or insolvents before the final order of the court shall have been made in the matter of the petition before the court, but the landlord or party to whom the rent shall be due shall be allowed to come in as a creditor, and receive any dividend or dividends in proportion to the amount of any rent due, in like manner as other creditors in proportion to the amounts of their respective dues.

1828. 19 July, 9 Geo. 4, cap. 73.

Court may remove Assignees.—Suits not to abate.

(30) And be it further enacted, that after any such assignment or conveyance as by the provisions of this act are required to be made to the common assignee of the court for relief of insolvent debtors, or after any such adjudication as aforesaid, it shall be lawful for the said courts respectively, at any time in their discretion, to appoint some other assignee or assignees, and when such new assignee or assignees shall have signified to the court his or their acceptance of the appointment, the estate, effects, rights, dues, claims, choses in action, interest, trusts, and powers, which shall have been assigned or conveyed, transferred to, or vested in such common assignee, shall immediately be assigned and conveyed by him to such new assignee or assignees as aforesaid, upon the same trusts and for the same purposes as they are before assigned and conveyed; and in case any assignee or assignees shall be unwilling to act, or in case of the death or incapacity or misconduct of any assignee or assignees, it shall be lawful for the court by which he or they shall have been appointed to order that any assignment or conveyance to him or them shall be vacated, and the same shall be vacated accordingly, but so nevertheless that no act or thing done prior to the order whereby they are vacated shall be annulled or in any way affected thereby; and it shall also be lawful for the court to appoint a new assignee or assignees, with like powers and authorities, and to oblige any assignee or assignees so removed, and the heirs, executors, administrators, and assigns of any deceased assignee, to account for and deliver up all such estate and effects, books, papers, writings, deeds, and all other evidences relating thereto, as shall have come to his, her, or their hands by virtue of any assignment or conveyance made under this act, and the decision of the court thereupon shall be final and conclusive; and from and immediately after any such appointment as is aforesaid of any new assignee, all the estate, effects, rights, dues, claims, choses in action, interest, trusts, and powers assigned or conveyed to or vested in the assignee or assignees, in the room of whom such new assignee or ass'gnees as aforesaid shall have been appointed, shall by virtue of such appointment be transferred to and become vested in such new assignee or assignees; and whenever an assignee shall die or be removed, or a new assignee or assignees shall be appointed as aforesaid, no action at law or suit in equity brought or defended by him

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him or them in the character of assignee or assignees under this act shall be thereby abated, but upon the suggestion of such death, removal, or new appointment, such action or suit shall be prosecuted or defended in the name of the existing assignee or assignees; and all such assignments, conveyances, and appointments, as it is hereinbefore mentioned are to be made under the directions of the courts for the relief of insolvent debtors, shall be entered on the proceedings of the court by the order of which they shall be made.

Petitioners to deliver Schedules of Property.

(31) And be it enacted, that when any such petition as is aforesaid shall be presented by any insolvent or insolvents to the said court for the relief of insolvent debtors, the party or parties presenting the petition, at the same time or within thirty days after, or within such further time as the said court may deem reasonable, shall deliver into the court a schedule containing a full and true account of all his, her, or their debts, whether due by him, her, or them solely, or jointly with any other person or persons, and of all claims made upon the insolvent or insolvents for any such debts not admitted to be due, together with a full and true description of the several persons to whom such debts shall be owing, or by whom such claims shall have been made, and also a true and perfect account of all the estates and effects, real and personal, of the insolvent or insolvents, in possession, reversion, remainder, or expectancy, wheresoever situate, and of all his, her, or their rights, dues, claims, choses in action, and interests, and of all trusts and powers which can in any way be available for the benefit of his, her, or their creditors; and such schedule shall also contain a full and true statement of the names and places of abode of the person or persons from whom any debt or debts shall be owing to the petitioner or petitioners, himself or themselves, or to him, her, or them jointly with any other person or persons, or against whom any claim or action may be brought, maintained, and enforced, and of the witnesses who may be able to prove such debts or support such claim or action, together with any other particulars which may be required by any rules to be established for the practice of the said courts for the relief of insolvent debtors respectively, or for giving further effect to this act in the manner which is hereinbefore set forth; and every such schedule so delivered as aforesaid shall be subscribed by the insolvent or insolvents delivering the same with his, her, or their names, and shall forthwith be filed in the court.

Insolvent may file Schedule after Adjudication.

(32) Provided always, and be it further enacted, that after any such adjudication of an act of insolvency as aforesaid, it shall be lawful for any insolvent to file a schedule in the court by which such adjudication shall have been pronounced, in like manner as if such insolvent had presented a petition for relief under this act, which schedule shall have

have the like effect and be acted upon in the like manner, and from which schedule such insolvent shall be entitled to the like benefit, as if the same had been filed in consequence of a petition for relief presented by such insolvent under this act. 1828. 19 July, 9 Geo. 4, cap. 73.

Court shall give Notice to the detaining Creditor, and appoint a Day for hearing the same.

(33) And be it enacted, that after the petition and schedule of any insolvent shall have been filed in any court for the relief of Insolvent debtors, and assignment shall have been made as hereinbefore directed, and after any such adjudication of an act of insolvency shall have been pronounced upon the petition of any creditor or creditors of such insolvent as aforesaid, the court shall cause notice thereof to be given to any creditor or creditors of the insolvent at whose suit he or she may be detained in custody, or the attorney or agent of such creditor or creditors, and to the other creditors resident within the British territories in the East-Indies, as the court shall direct; and notice to the like effect shall be twice at least published in the gazette of the presidency where such court shall be holden; and the court in such notice shall appoint a day and place for the hearing of the matters of the petition of such insolvent, or of any such creditor or creditors of such insolvent as aforesaid, after such convenient interval of time that all the creditors resident within the British territories in the East-Indies may have sufficient opportunity of examining and ascertaining the truth or falsehood of the insolvent's petition and schedule.

Hearing of Petitions.—Expenses of Witnesses.

(34) And be it further enacted, that upon the day so appointed by the court as aforesaid for the hearing of any petition, or on any future day to which such hearing may be adjourned, it shall be lawful for the insolvent or insolvents, and for any creditor or creditors of the insolvent or insolvents, to be heard, either by himself, herself, or themselves, or by counsel, in support of or in opposition to the petition before the court, and the whole matter and substance of the petition shall be inquired into and examined by the court, as well respecting the claims of any creditors who shall be absent, as of those who shall be present; and it shall be lawful for the court to order any insolvent who is in custody to be brought before it as often as occasion may require, and to summon any insolvent who shall not be in custody, and the wife of any insolvent, and any other person, whether a creditor not, who is known or suspected to have any of the estate or effects of the insolvent or insolvents in his or her possession, or any person who is suspected to be indebted to the insolvent or insolvents, or any person who is believed to be capable of giving any information which will more easily enable the court to dispose of the estate and effects of the insolvent or insolvents for the benefit of his, her, or their creditors; and it shall also be lawful for the court to examine any insolvent

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vent or his wife, or any other such person, whether a creditor or not, who shall appear before the said court, in the same way as any other witnesses are examined in any of his Majesty's courts of record in the East-Indies, in any suits at law or in equity, or according to any rules which may be made for the practice of the said courts for the relief of insolvent debtors respectively, or for giving effect to this act in the manner which is herein prescribed: provided always, that every witness summoned to attend before the court shall have his necessary expenses tendered to him, in like manner as by law is required upon service of a subpœna to a witness in an action at law.

Court may receive Affidavit of Creditor incapable of attending.

(35) Provided also, and be it enacted, that in all cases where any creditor or other person shall reside more than one hundred miles from the said court, or shall be incapable of attending the said court by reason of sickness or infirmity, to be proved to the satisfaction of the court, it shall be lawful for the court to receive the affidavit or solemn affirmation of such creditor or other person, and also, if the court shall think fit, to permit interrogatories to be filed for the examination and cross-examination of any person making or joining in such affidavit or solemn affirmation.

Mutual Debts.

(36) And be it further enacted, that when there has been mutual credit given by the insolvent or insolvents and any other person or persons, one debt or demand may be set against the other, and all such debts, dues, and claims as may be proved under a commission of bankruptcy, according to the provisions of an act passed in the sixth year of the reign of his present Majesty, intituled an Act to amend the Laws relating to Bankrupts, or may hereafter be proveable under such commission by virtue of any act hereafter to be passed, may also be proved upon any such hearing as is hereinbefore mentioned, in the same manner, and subject to the like deductions, conditions, and provisions, as in the said last-mentioned act are set forth and prescribed.

Creditors may claim although omitted from Schedule, &c.

(37) And be it further enacted, that when any petition shall have been presented under this act to any of the said courts for the relief of insolvent debtors, either by an insolvent or by any creditor or creditors of such insolvent, it shall be lawful for any person or persons to whom such insolvent shall be indebted, at any time before or after the discharge of such insolvent, to make claim upon the estate of such insolvent, and to prove his or their debt or debts, whether due by such insolvent solely, or jointly with any other person or persons, and shall be entitled to and receive a dividend thereon rateably with the other creditors of the said insolvent, although the name of such creditor may

have

have been wholly omitted by the said insolvent in his or her schedule, or may have been inserted for a smaller amount than the debt really due to such person; and in the case of an adjudication of an act of insolvency under this act, then although no schedule shall have been filed by such insolvent, and where any objection to the existence or amount of such debt so claimed shall be made by such insolvent or any creditor, such court shall hear the same, and make such order thereon as may seem meet and just.

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Order of Court upon the Hearing.

(38) And be it further enacted, That upon the hearing of any such petition, it shall be lawful for the court to adjudge that the insolvent is entitled to the benefit of this act, and to order his immediate discharge from custody accordingly, or to dismiss or amend the petition, or to order the insolvent or insolvents to amend his, her, or their schedule or schedules, or to adjourn the further hearing of the petition until a future day, or to make a reference to the examiner or other proper officer of the court, to make inquiry into any matter of account, or into the truth of the schedule or schedules, and to report thereon to the court; and it shall also be lawful for the court to remand the insolvent or insolvents to prison until the further hearing of the petition, or until final order be made in the matter thereof, or to commit the insolvent or insolvents to custody for any debt or debts, if he, she, or they shall not be in custody at the time of the hearing, and to cancel or renew any such certificate as is hereinbefore mentioned, which may have been given for the purpose of protecting the insolvent or insolvents from arrest, or to make any fresh order for protecting the insolvent or insolvents from arrest until final order shall be made in the matter of the petition before the court, and to order and direct that the assignee or assignees shall make some reasonable allowance for maintenance until such final order, the amount of which shall be fixed by the court, and shall not exceed five sicca rupees per week: provided always, that in case of the court dismissing any petition, the acts previously done by the assignee or assignees, or any person or persons acting under his or their authority, in pursuance of this act, shall be valid; but in such case the court shall make such order for re-assigning and re-delivery to the insolvent the residue of his or her estate and effects, as the case shall require, whereupon the same shall be re-vested in such insolvent accordingly.

Public Notice of Order.

(39) And be it further enacted, that the court by which any order, shall be made upon any such hearing as is hereinbefore mentioned, shall also order that the assignee or assignees shall give such notice of such order having been made as to the court shall seem fit and convenient.

Dis-

Discharge may extend to Annuities.

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(40) And be it further enacted, That the discharge of any such insolvent so adjudicated as aforesaid shall and may extend to any sum and sums of money which shall be payable by way of annuity or otherwise, at any future time or times, by virtue of any bond, covenant, or other security whatsoever; and that every person and persons who would be a creditor or creditors of such insolvent for such sum or sums of money, if the same were presently due, shall be admissible as a creditor or creditors of such insolvent for the value of such sum or sums of money so payable as aforesaid; which value the said court shall, upon application at any time made in that behalf, ascertain, regard being had to the original price given for such sum or sums of money, deducting therefrom such diminution in the value thereof as shall have been caused by the lapse of time since the grant thereof to the time of filing such insolvent's petition; and such creditor or creditors shall be entitled, in respect of such value, to the benefit of all the provisions made for creditors by this act, without prejudice nevertheless to the respective securities of such creditor or creditors, excepting as respects such insolvent's discharge under this act.

Actions brought upon Claims admitted in Schedule shall be discontinued.

(41) And be it further enacted, that if at the time of any such hearing and order any suit or action shall be pending against the insolvent or insolvents in any court within the British territories in the East-Indies, or for any debt, claim, obligation, or demand admitted in the schedule of the insolvent or insolvents, or disputed as to amount only, every plaintiff in such suit or action shall discontinue the same, and shall pay all costs incurred subsequent to his having notice of such hearing and order; and in case of such discontinuance, the insolvent or insolvents shall not, by virtue of any supersedeas, nonsuit, or judgment as in case of nonsuit in any such suit or action, be relieved from the debt, claim, obligation, or demand for which it shall have been brought, or entitled to claim from the plaintiff or plaintiffs any of the costs of any such suit or action incurred before the plaintiff or plaintiffs had notice of the hearing and order aforesaid.

Assignees may seize Property of Petitioners.

(42) And be it further enacted, that every such assignee as aforesaid shall, with all convenient speed, take possession, by himself or by means of messengers of the court, or by other fit and proper persons, of all the real and personal estate and effects of the insolvent of which immediate possession may be obtained, and shall use his or her best endeavours to seize, obtain, recover, and reduce into possession as speedily as possible the rest of such estate and effects, and all debts, claims, and choses in action which by such assignment he shall have been empowered to obtain, recover, and get in.

Court

Court may sell reputed Property of Petitioner.

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(43) And be it further enacted, that if any such insolvent or insolvents as are before mentioned, at the time of filing his, her, or their petition, or at the time of any such adjudication of an act of insolvency as aforesaid, shall, by the consent and permission of the true owner thereof, have in his, her, or their possession, order, or disposition, any goods or chattels whereof he, she, or they is or are reputed owner, or of which he, she, or they have undertaken the sale, alteration, or disposition, as owner, the court in which the petition shall have been filed, or by which such adjudication shall have been pronounced, shall have power to sell and dispose of the same for the benefit of the creditors of such insolvent or insolvents; provided that nothing herein contained shall invalidate or affect any transfer or assignment of any ship or vessel, or any share thereof, made as a security for any debt or debts, either by way of mortgage or assignment, according to the provisions of an act of parliament made in the sixth year of the reign of his present Majesty, and intituled an Act for the registering of British Vessels.

Assignees may redeem Property of Petitioner.

(44) And be it further enacted, that if any insolvent or insolvents shall have mortgaged, pledged, pawned, or deposited any real or personal estate, or any effects, deeds, or written instruments, with a reservation to himself, herself, or themselves of a power of redeeming the same, his, her, or their assignee or assignees shall have the same right and power of redemption as the insolvent or insolvents would have had if the assignment had not been made.

Court may order Transfer of Stock of Petitioner.

(45) And be it enacted, that if any insolvent or insolvents shall, at the time of filing his, her, or their petition for relief in any such court for the relief of insolvent debtors, or at the time of any such adjudication of an act of insolvency as aforesaid, or at any time before he or she shall become entitled to his or her final discharge according to this act, have any government stock, funds, or annuities, or any of the stock of any public company, either in England, Scotland, or Ireland, standing in his, her, or their own name or names, in his, her, or their own right, it shall be lawful for such court, whenever it shall deem fit so to do, to order all persons whose act or consent is thereto necessary to transfer the same into the name or names of such assignee or assignees as aforesaid, and all such persons whose act or consent is so necessary as aforesaid are hereby indemnified for all things done or permitted pursuant to such order: provided always, that in all transfers into the name or names of any such assignee or assignees, the transferee or transferees shall be described as assignee or assignees of the estate and effects of the insolvent; and no dividend shall be payable to, nor any future transfer made by, any person of any such

stock,

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stock, funds, or annuities, except under a power of attorney in the usual form required for the receipt of dividends upon or transfer of such stock, funds, and annuities respectively, duly executed by such assignee or assignees, and attested by two credible witnesses, one of whom shall be an officer of such court for relief of insolvent debtors, and to which attestation the seal of such court shall be affixed.

Assignees may make Composition.

(46) And be it further enacted, that after the hearing of any such petition and schedule as hereinbefore mentioned, it shall be lawful for the assignee or assignees, by and with the approbation of such court, and by and with the consent of any creditors whose claims after such hearing shall appear to amount to more than half of all the debts due from the insolvent to persons resident within the British territories in the East-Indies, to take such reasonable part of any debts due to the petitioner or petitioners, as may by composition be gotten, in full discharge of such debts, and to submit to arbitration any difference or dispute between the assignee or assignees, and any other person or persons, for or on account or by reason of any thing relating to the estate and effects of such prisoner.

Assignees may prosecute and defend Actions.

(47) And be it further enacted, that it shall be lawful for the assignee or assignees, by and with the like approbation and consent, to commence and prosecute or defend any suits or actions at law or in equity which the insolvent or insolvents might have commenced and prosecuted or defended, and to defray the costs to which he or they may be put in respect of such suits or actions out of the proceeds of the estate and effects of the insolvent or insolvents; and if there be any partner or partners of the insolvent or insolvents who hath not or have not joined in the petition, it shall be lawful for the court to authorize the assignee or assignees to join such partner or partners with himself or themselves as plaintiffs in such suit or action; and if such partner or partners shall execute any release of the debt or demand for which such suit or action is brought, the release shall be void: provided always, that such partner or partners, if he, she, or they shall take no part in the prosecution or defence of such suit or action, shall not be liable to pay costs in respect of the same.

Assignees may execute Powers vested in Insolvents.

(48) And be it further enacted, that all powers vested in any such insolvent or insolvents as are afore-mentioned, which he, she, or they might lawfully execute, for his, her, or their benefit, might be executed by his, her, or their assignees, for the benefit of his, her, or their creditors.

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Assignees shall sell the Property, if the Court direct.

(49) And be it further enacted, that from time to time as possession is obtained of any of the estate or effects of any insolvent or insolvents, the assignee or assignees shall with all convenient speed make sale of the same; subject nevertheless to the direction and control of the court by authority of which he or they shall have been appointed, in case any application shall be made to such court by any insolvent, or any creditor or mortgagee, in all which cases such court shall have full power and authority to delay or postpone the sale of any property, and to make such other order regulating the same as to such court shall seem meet.

Court may defer Sale of Property.

(50) And whereas the insolvents may be entitled to annuities for their own lives, or other uncertain interests, or to reversionary or contingent interests, or may have made advances of money for the cultivation of lands, or may be interested in property in other ways, in which the immediate sale thereof for payment of their debts may be very prejudicial to them and to their creditors, and it may be proper in some cases to defer the sale of such property, and to put it under temporary management, or to authorize the raising of money by way of mortgage for payment of the debts or part of the debts of an insolvent, and for defraying the expenses attending the execution of this act, instead of selling for such purpose; be it enacted, that in all such cases it shall be lawful for the said courts for relief of insolvent debtors at any time to take into consideration all circumstances affecting any property of the prisoner which shall have been assigned under the provisions of this act; and if it shall appear to any such court that it would be reasonable to make any special order touching the same, it shall be lawful for such court so to do, and to direct that so much of the said property as it may be expedient not to sell immediately, according to the provisions of this act, shall not be so sold, and from time to time to order and direct in what manner such property shall be managed, for the benefit of the creditors of such insolvent, until the same can be properly sold, or until payment of such creditors be effected, according to the provisions of this act, and to make such order touching the sale or disposition of such property as to such court for relief of insolvent debtors may seem reasonable and beneficial, and upon such terms and conditions, with respect to the allowance of interest on debts not bearing interest, or other circumstances, as to such court shall seem just; and if it shall appear that the debts of any such insolvent or insolvents can be discharged by means of money raised by way of mortgage on any of the said property of the said insolvent or insolvents, instead of raising the same by sale, it shall be lawful for the said court so to order, and to give all necessary directions for such purpose, and generally to direct all things

which

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which may be proper for the discharge of the debts of such insolvent or insolvents, as may be most consistent with the interest of such petitioner or petitioners, and of his, her, or their creditor or creditors.

Assignees to render Accounts.

(51) And be it further enacted, that the assignee or assignees of all such insolvents as are hereinbefore mentioned shall keep accounts of the property, debts, and credits of such insolvents, whether belonging or due to or from such insolvents solely, or jointly with any other person or persons, wherein they shall enter all property of the insolvents received by them, and all payments made by them; which accounts any creditors may inspect at all seasonable times; and it shall be lawful for the courts for the relief of insolvent debtors at all times to summon the assignees before them, and require them to produce all books, papers, deeds, writings, and other documents in their possession, which in any way relate to the petition of the insolvent or insolvents; and if such assignee or assignees so summoned shall not come before such courts respectively at the time appointed, or shall not bring with him or them such documents as are afore-mentioned, it shall be lawful for such courts respectively to issue attachments, and to cause such assignee and assignees to be brought before them, and to commit such assignee or assignees to prison until he or they shall submit to the court by which he or they shall have been summoned.

Court to declare Dividends.

(52) And be it further enacted, that whenever it shall appear by the accounts of any assignee or assignees that a dividend may be beneficially made amongst the creditors, it shall be lawful for any court for the relief of insolvent debtors to summon before it the assignee or assignees, and to direct that such public notice as to the court may seem meet shall be given of a further hearing of the petition on a day certain, for the purpose of making a dividend; and on the day so fixed the insolvent or insolvents, and assignee or assignees, and any creditors who shall be willing to do so, shall attend the court, and all objections to the schedule of the insolvent or insolvents, and to the accounts or conduct of the assignees, and any claims of any creditors which shall not have been previously determined, shall be then heard and determined, either by such court immediately, or upon a reference to the examiner or other proper officer of such court; and it shall be lawful for such court to examine the insolvent or insolvents, assignees, and any witnesses, on oath, and either at that time to declare a dividend, and to direct that the same shall be paid by the assignee or assignees, or to postpone such declaration and direction of the same until a further hearing, and to make such order in the matter of the petition, and respecting the same, as shall be most conducive to the attainment of the benefit intended by the several provisions of this act.

Dividends

1828. 19 July, 9 Geo. 4, cap. 73.

Dividends to joint and separate Creditors.

(53) Provided always, and be it enacted, that it shall not be lawful for such court to order any dividend to be made amongst the joint creditors out of the separate estate, until the separate creditors shall have been paid in full, nor to order any dividend to be made to the separate creditors out of the joint estate, until all the joint creditors shall have been paid in full; in which latter case it shall be lawful for such court to order such dividend to be made among the separate creditors, out of such interest in the joint estate, as such insolvent shall appear to be separately entitled to.

Part of an Insolvent's Property to be reserved.

(54) Provided always, and be it further enacted, that unless it shall appear, upon reasonable proof to be made to the satisfaction of such court for the relief of insolvent debtors, and be so certified by such court, that all the property of the insolvent is situate, and all the debtors and creditors resident, within the limits of the charter of the said United Company, then, until the expiration of twelve calendar months from the notice in the London Gazette of the petition of any insolvent as hereinbefore mentioned, the assignee or assignees appointed by such court shall reserve the full amount of one-third part of the property of the said insolvent collected in and received by such assignee or assignees, and shall make a dividend among the creditors of the said insolvent to the amount of the remaining two-third parts only, which third part so to be reserved as aforesaid shall in the meantime be invested or disposed of in such way as such court shall order, and shall not remain in the hands of such assignee or assignees; and at the expiration of the said term of twelve calendar months it shall be lawful for the assignee or assignees of such insolvent to apply to such court for a return of the said third part so reserved as aforesaid, in order that the same may be so distributed among the creditors as to place them all upon an equal footing; and upon such third part so reserved as aforesaid being restored to such assignee or assignees, such assignee or assignees shall forthwith proceed to take an account of the debts of the said insolvent, and of the sum or sums which shall or may have been paid by way of dividend to any of such creditors, and shall distribute the fund then in the hands of such assignee or assignees, so as to place all the creditors of the said insolvent, whether Indian or British, upon a just and equal footing, and so as that every creditor shall receive a rateable and proportionable part of the assets of the said insolvent, according to the amount of his debt, and whether such debt be inserted or omitted in the schedule, or whether the same shall have been rightly inserted or not, and without reference to the time at which such debt shall have been claimed.

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19 July,
9 Geo. 4,
cap. 73.

Money of Absent Creditors.

(55) And be it further enacted, that if any creditor whose claim shall have been established in any court for the relief of insolvent debtors shall not appear, by himself, his attorney or agent, at the making of any dividend, nor shall make application to receive his, her, or their share thereof, the assignee or assignees shall certify the same to such court at its first sitting after the making of the dividend; and it shall be lawful for the court to direct in what manner, and by whom, and upon what conditions, the money so due to such creditor or creditors shall be kept for or paid to him, her, or them, or to his, her, or their lawful constituted attorney.

Assignees to make Compensation for Losses occasioned by their Misconduct.

(56) And be it further enacted, that if any assignee or assignees shall neglect to account, or to pay any difference which shall have been ordered by any court for the relief of insolvent debtors, or in any other respect shall neglect his or their duty as assignee or assignees, it shall be lawful for such court to summon such assignee or assignees, and to inquire into such neglect; and if such court shall be of opinion that the insolvent of insolvents, or his, her, or their creditors, have suffered any injury by the fault of the assignee or assignees, it shall be lawful for such court to order the assignee or assignees to make such compensation for the same as to such court shall seem fit; and in default of the assignee or assignees obeying the summons of such court, or making such compensation as shall be ordered by such court, it shall be lawful for such court to commit the assignee or assignees who shall have so offended to the common gaol, there to remain without bail until he or they shall obey the order of such court; or to levy, by distress and sale of the offender's goods, so much as shall be sufficient to make the compensation which shall have been ordered by such court.

Discharge to be not later than three years from petitioning in some cases, and two years in others.

(57) And be it further enacted, that in case it shall appear to any court for the relief of insolvent debtors, that any such insolvent has fraudulently, with intent to conceal the state of his or her affairs, or to defeat the objects of this act, destroyed, or otherwise wilfully prevented or purposely withheld the production of any book, paper, or writing relating to such of his or her affairs as are subject to investigation under this act; or kept or cause to be kept false books, or made false entries in, or withheld entries from, or wilfully altered or falsified any such book, paper, or writing; or that such insolvent has fraudulently, with intent of diminishing the sum to be divided among his or her creditors, or of giving an undue preference to any of the said creditors, discharged or concealed any debt due to or from the said insolvent;

insolvent; or made away with, charged, mortgaged, or concealed any part of his or her property, of what kind soever; then it shall and may be lawful for such court to adjudge that such insolvent shall be so discharged, and so entitled as aforesaid, so soon as he or she shall have been in custody, at the suit of some one or more of the persons as to whose debts and claims such discharge is so adjudicated, for such period or periods, not exceeding three years in the whole, as such court shall direct, to be computed from the date of his or her petition. 1828. 19 July, 9 Geo. 4, cap. 73.

(58) And be it further enacted, that in case it shall appear to any such court that such insolvent shall have contracted any of the debts fraudulently, or by means of breach of trust, or by means of false pretences, or without having any reasonable or probable expectation, at the time when contracted, of paying the same; or shall have put any of his or her creditors to any unnecessary expense, by any vexatious or frivolous defence or delay to any suit for recovering any debt or any sum of money due from such insolvent; or shall be indebted for damages recovered in any action for criminal conversation with the wife or for seducing the daughter or servant of the plaintiff in such action, or for breach of promise of marriage made to the plaintiff in such action, or for damages recovered in any action for a malicious prosecution, or for a libel, or for slander, or in any other action for a malicious injury done to the plaintiff therein, or in any action of tort or trespass to the person or property of the plaintiff therein, wherein it shall appear, to the satisfaction of such court, that the injury complained of was malicious; then it shall and may be lawful for such court to adjudge that such insolvent shall be so discharged and so entitled as aforesaid forthwith, excepting as to such debts, sum or sums of money, or damages as above mentioned; and as to such debt or debts, sum or sums of money, or damages, to adjudge that such insolvent shall be so discharged and so entitled as aforesaid, as soon as he or she shall have been in custody, at the suit of the person or persons who shall be creditor or creditors for the same respectively, for a period or periods not exceeding two years in the whole, as such court shall direct, to be computed as aforesaid.

Court may order Costs.

(59) And be it further enacted, that whenever any creditor or creditors opposing such insolvent's discharge shall prove, to the satisfaction of any such court, that such insolvent has done or committed any act for which upon such adjudication as aforesaid he or she may be liable to remain in such custody as aforesaid for a period not exceeding three years, to be computed as aforesaid, such court shall adjudge the taxed costs of such opposition to be paid to such opposing creditor or creditors, out of the estate and effects of such prisoner, by his or her assignee or assignees, before any dividend made thereof; and in all other cases of opposition to an insolvent's discharge being substantiated or effectual, it shall be lawful for such court to adjudge in like

1828. 19 July, 9 Geo. 4, cap. 73. like manner, if it shall seem fit; and that in case it shall appear to such court that the opposition of any creditor to any such insolvent's discharge was frivolous and vexatious, it shall and may be lawful for such court to award such costs to such insolvent as shall appear to be just and reasonable, to be paid by the creditor or creditors making such opposition, which shall be paid accordingly.

Court to make Order pursuant to Adjudication, and issue Warrant.

(60) And be it enacted, that where, in the matter of any such petition heard before any such court, any adjudication shall have been made by such court for discharge of any insolvent, order shall be made accordingly by the said court in pursuance of such adjudication, and such court shall also issue a warrant or warrants to the gaoler accordingly, ordering the discharge of such insolvent from custody as to the detainers under which he or she shall then be confined, or which shall be lodged against him or her before he or she shall be out of custody, the same being for debts in respect of which such adjudication shall have been made; and that every such order of adjudication shall take effect, as from the day on which the adjudication shall have been made in that behalf; and that every such adjudication, and certificate thereof, and order thereupon, may be made without specifying therein any such debt or debts, or sum or sums of money, or claims as aforesaid, or naming therein any such creditor or creditors as aforesaid, excepting so far as shall be necessary in any case in order to distinguish between the creditors as to whom any such insolvent may be adjudged to be so discharged and entitled as aforesaid forthwith, and the creditors as to whom he or she may be adjudged to be so discharged and entitled at some future period: provided, nevertheless, that in all cases the detainer or detainers with respect to which any such insolvent shall have been adjudged to be discharged out of custody, he or she being then in custody thereupon, shall be specified in the warrant of such court to be delivered to the gaoler in that behalf.

Adjudication and Order to be final, unless obtained on false Evidence, &c.

(61) And be it further enacted, that every such adjudication for discharge of any insolvent as aforesaid by any such court as aforesaid, and the order thereupon, so made as aforesaid, except in cases of appeals, shall be final and conclusive, and shall not be reviewed by such court, unless such court shall thereafter see good and sufficient cause to believe that such adjudication has been made on false evidence, or otherwise improperly made, or fraudulently obtained, in which case it shall and may be lawful for such court, upon the application of such insolvent, or of any creditor of such insolvent, to order such insolvent, upon due notice, to be given to such persons and in such manner as the said court shall direct, to attend

or

or to be brought up, and the said matter to be reheard before the said court, who shall thereupon rehear the same, and shall and may, if just cause shall appear, annul the original adjudication and order thereupon made in such case, and shall have the same powers and authorities upon such rehearing as upon any original hearing in pursuance of this act, and may adjudicate in such matter accordingly: and thereupon, in case the former adjudication in the said matter shall not be confirmed, such order, certificate, and warrant shall be made as required by this act, to be made upon such original adjudication; and the said court shall and may, if necessary, remand the said insolvent to the same custody in which he or she was at the time of the former hearing, there to be subject to imprisonment as if the former adjudication therein had not been made; and thereupon all detainers which were in force against such insolvent at the time of his or her former discharge from custody shall be deemed to be still in force against him or her, as if such former adjudication had not been made; and the gaoler and keeper of the prison to which such insolvent shall be so remanded shall, and is hereby required to receive such insolvent into his custody, in pursuance of such remand, for doing which the order of remand in such case shall be his sufficient warrant; and where in any case such insolvent shall refuse or neglect to appear before such court, according to such order for rehearing as aforesaid, a copy whereof shall have been duly served on such insolvent, it shall and may be lawful for such court to order such insolvent to be apprehended, and committed to custody to such prison, and to issue its warrant accordingly, and to cause such insolvent to be brought up for examination as often as to such court shall seem fit; provided always, that where upon such rehearing it shall appear to such court that such insolvent is not entitled to the benefit of this act until some future period, according to the provisions herein contained, the said court shall and may, if it shall appear reasonable, adjudge the discharge of such insolvent at such future period, to be calculated without including the time during which such insolvent shall have been out of custody since the time appointed for his or her discharge by such former adjudication as aforesaid.

1828. 19 July, 9 Geo. 4, cap. 73.

Insolvent may, after Discharge, be examined as to the Estate and Effects.

(62) And whereas the estate, both real and personal, of any person whose discharge has been adjudicated under this act, may not be sufficiently described or discovered in his or her schedule so sworn to as aforesaid, or the assistance of such person may be necessary to adjudge, make out, recover, or manage his or her estate and effects, for the benefit of his or her creditors; be it therefore enacted, that it shall and may be lawful to and for the assignee or assignees of the estate and effects of any such person whose discharge

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charge shall have been adjudicated under this act, in case such person shall, upon application to him or her for that purpose, have refused or neglected to give the necessary information, from time to time, to apply to the court by which any such adjudication shall have been pronounced, that such person may be further examined as to any matters or things relating to his or her estate and effects by such court; and thereupon, and also in case such person shall neglect or refuse to appear before such court at such time and place as shall be directed by such order, or appearing shall refuse to be sworn, or to answer such questions as shall be put to him or her relating to the discovery of his or her said estate and effects, then and in any of such cases it shall be lawful for such court, by warrant, to commit such person to gaol, there to remain without ba or mainprize until such time as he or she shall submit himself or herself to the order of such court in that behalf, and shall answer upon oath or otherwise, as shall be required, to all such lawful questions as shall be put to him or her, in pursuance of the same, for the purposes aforesaid.



Court may in certain Cases discharge Insolvent from Liability as to Debts specified.

(63) And be it further enacted, that whenever it shall be made to appear to the satisfaction of any court for relief of insolvent debtors, upon the application of any insolvent, his assignee or assignees, or any of his or her creditors, that the estate of such insolvent debtor which shall have come to the hands of the assignee or assignees shall have produced sufficient to pay and discharge three-fourths of the amount of the debts which shall have been established in such court, or that creditors to the amount of more than one-half in number and value of the debts which shall have been so established shall signify their consent in writing thereto, it shall be lawful for such court to inquire into the conduct of the said insolvent; and if it shall appear to such court that the said insolvent has acted fairly and honestly towards his or her creditors, such court shall be fully authorized and empowered thereupon to order that the said insolvent shall be for ever discharged from all liability whatsoever for or in respect of such debts so established as aforesaid; and such court shall, in the order to be drawn up, specify and set forth the names of such creditors; and after any such order shall have been so made, no further proceedings shall be had in the matter of the petition before the court, unless upon appeal made to the supreme court of judicature of the presidency where such court for the relief of insolvent debtors shall be holden, as hereby authorized: provided always, that no such order as last aforesaid shall prevent any creditor who shall not have been resident within the limits of the charter of the said United Company at any time between the filing of such petition and the making of such order as last mentioned, and who shall not have taken part in any of the proceedings

ceedings under the said petition, from bringing any suit or action in the East-Indies, for the purpose of obtaining execution against the goods, estate, or effects of such insolvent, for any unsatisfied claim of such creditor, nor from bringing any suit or action for such claim in any court of the United Kingdom of Great Britain and Ireland, or elsewhere without the limits of the said United Company's charter, against such insolvent, in the same manner, and with the like consequences and effects, as if such order as last-mentioned had not been made.

1828. 19 July, 9 Geo. 4, cap. 73.

Remedy for unlawful Proceedings against Petitioner.

(64) And be it further enacted, that if after the making of any such order as last aforesaid any insolvent shall, contrary to the tenour of the same, and to the true intent and meaning of this act, be sued in any court whatsoever, it shall be lawful for such person to plead such order, and to give an office copy thereof in evidence; and if such person shall thereupon obtain a verdict or decree in his or her favour, or if the bill shall be dismissed for want of prosecution, or there shall be judgment of nonsuit, the defendant or defendants shall also be adjudged to have treble costs.

Petitioner may be arrested, &c. till period of Adjudication of Discharge.

(65) Provided always, and be it enacted, that in all cases where it shall have been adjudged that any such insolvent shall be so discharged and be entitled as aforesaid at some future period, such insolvent shall be subject and liable to be detained in prison, and to be arrested and charged in custody, at the suit of any one or more of his creditors with respect to whom it shall have been so adjudged, at any time before such period shall have arrived, in the same manner as he or she would have been subject and liable thereto if this act had not passed: provided nevertheless, that when such period shall have arrived such insolvent shall be entitled to the benefit and protection of this act, notwithstanding that he or she may have been out of actual custody during all or any part of the time subsequent to such adjudication, by reason of such prisoner not having been arrested or detained during such time or any part thereof.

Court may order detaining Creditor to pay Prisoner a fixed Sum.

(66) And be it further enacted, that in all cases where such insolvent shall, upon such adjudication as aforesaid, be liable to further imprisonment at the suit of his or her creditor or creditors, or any or either of them, it shall be lawful at any time for the court by which such adjudication shall be pronounced, on the application of such insolvent, to order such creditor or creditors at whose suit he or she shall be so imprisoned to pay to such insolvent such sum or sums of money, not exceeding the rate of five sicca rupees by the week in the whole, at such times, and in such manner, and in such proportions as such

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such court shall direct; and that, on failure of payment thereof, as directed by such court, such court shall order such insolvent to be forthwith discharged from custody at the suit of the creditor or creditors so failing to pay the same.

Special Provisions for Insolvent Married Women.

(67) And be it further enacted, that if any married woman, being a prisoner, or in insolvent circumstances, within the intent and meaning of this act, shall petition to be discharged for any debt or debts under the provisions of the same, it shall be lawful for any court for the relief of insolvent debtors to which such petition shall be presented to receive the same, without requiring such married woman to execute such conveyance or assignment as may be lawfully required for other petitioners according to the provisions of this act, but instead thereof such court shall require such married woman to execute a conveyance and assignment for vesting in an assignee or assignees appointed by such court, all property, real and personal, to which she may be entitled for her separate use, whether in possession, remainder, reversion, or expectancy, or over which she shall have any power or disposition notwithstanding her coverture, or which shall be vested in any trustees or trustee, or other person or persons, for her benefit, and to deliver up all personal estate and effects of which she shall have the actual possession, except such as she may be permitted by such court to retain, subject only to such right, title, or interest as her husband may have in the aforesaid real and personal property; all which acts she is hereby empowered to do without her husband, notwithstanding her coverture, so nevertheless as not to prejudice any right of her husband in such real and personal estate and effects respectively; and all such estate and effects, real and personal, in possession, reversion, or remainder, shall, by such conveyance and assignment so to be executed under the order of such court, be as effectually vested in the assignee or assignees as the same might have been vested in such assignee or assignees by the conveyance or assignment of such woman if she had been sole and unmarried, subject only to the rights of her husband therein as aforesaid; and all provision in this act contained, touching the real and personal estate of any petitioner or petitioners seeking to be relieved under the authority of the same, shall apply to such real and personal estate and effects of such married woman, in the same manner as the same would apply to such personal estate.

Insolvent Lunatics.

(68) And be it further enacted, that if any such prisoner for debt as aforesaid shall be or become of unsound mind, and be therefore incapable of taking the benefit of this act, in such manner as he or she might have done if of sound mind, the gaoler or keeper of the prison wherein the prisoner shall be shall give information thereof to the court

court for the relief of insolvent debtors of the presidency wherein such prison shall be situated, which court shall thereupon issue a commission to some competent person or persons to inquire, examine, and report to such court touching and respecting the state of the prisoner's mind: and such court may either confirm or set aside the report of such commissioner or commissioners, and may, if it think fit, make further inquiry by examination of witnesses upon oath; and if such court shall conclude that the prisoner is of unsound mind, it shall be lawful for such court, at the instance of any person of persons on behalf of such prisoner, to order notice to be twice inserted in the gazette of such presidency, and in such notice to specify and direct that application will be made to such court for the discharge of such prisoner on a day to be specified in such notice, being twenty days at least from the first time of publication of such notice; which notice, together with service of the notice on the creditor or creditors at whose suit such prisoner shall be detained in custody, or his, her, or their attorney, shall be deemed sufficient to authorize such court to proceed to the discharge of such prisoner, and such court shall proceed accordingly, and discharge such prisoner: provided always, that all and every estate, right, title, interest in law and equity, real and personal, power, benefit and emolument whatsoever, which if such prisoner were of sound mind could and ought to be assigned by such prisoner pursuant to the provisions of this act, shall, by force and virtue of the order for the discharge of such prisoner, be vested in the common or other assignee or assignees appointed by such court, as fully and effectually, and in the same manner, and with all and every the same consequence and effect, both in fact and law, as if such prisoner had been of sound mind, and had duly conveyed the same to such common or other assignee at the time and in the manner in this act provided.

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Warrants of Attorney and Cognovits void unless filed in Six Weeks.

(69) And be it further enacted, that after the time appointed for this act to take effect, every warrant of attorney to confess judgment in any personal action, in any of his Majesty's courts of record within the British territories under the government of the said United Company, and every cognovit actionem given by any defendant in any personal action which shall be pending in any of the said courts, shall, within six weeks after the execution of such warrant or cognovit, be filed, together with an affidavit of the time of the execution thereof, with the prothonotary or other proper officer of the court in which the judgment is confessed or the action is pending; and every such warrant of attorney and cognovit actionem as aforesaid, which shall not be so filed as aforesaid, shall be deemed fraudulent, null and void, to all intents and purposes; and if any warrant or cognovit which shall be so filed as aforesaid shall have been given subject to any defeazance or condition, such defeazance or condition shall be written on the same paper or parchment on which such warrant or cognovit shall be written,

before

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before the time when it shall be filed, otherwise such warrant or cognovit shall be null or void to all intents and purposes.

Prothonotary, &c. to keep Books for the Registry of Warrants, &c.

(70) And be it further enacted, that the prothonotary or other proper officer of his Majesty's Court of Record within the British territories under the government of the said United Company shall cause every warrant of attorney and cognovit actionem in any personal action filed in his office, to be numbered, and shall keep a book or books in his said office, in which he shall cause to be fairly entered an alphabetical list of all such warrants and cognovits, according to the form of a schedule annexed to an act passed in the third year of his present Majesty, intituled, An Act for preventing Frauds upon Creditors by secret Warrants of Attorney to confess Judgment; which book or books, and every warrant of attorney and cognovit actionem filed as aforesaid, shall be searched and viewed at all times, upon payment of the fees lawfully established.

Court may order Memorandum of Satisfaction to be indorsed.

(71) And be it further enacted, that it shall be lawful for the court in which any such warrant or cognovit is filed to order a memorandum of satisfaction to be written upon any such warrant or cognovit, if it shall appear to such court that the debt for which such warrant or cognovit was given as a security shall have been satisfied or discharged.

Penalty for Perjury.

(72) And be it further enacted, that if any person, in any proceeding, examination, affidavit, or affirmation had or taken under this act, shall wilfully and corruptly swear or affirm falsely, it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law, to order and adjudge such person, if convicted in the said United Kingdom, to be transported for any term not exceeding seven years, or if convicted in the East-Indies, to be transported to such place and for such term as the court shall direct, or in either case to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct.

Penalty for Embezzlement or Concealment of Effects.

(73) And be it further enacted, that if any insolvent or other person shall wilfully and fraudulently embezzle or conceal any part of the real and personal estate or effects of any insolvent or insolvents who shall have filed a petition for relief, or against whom any petition shall have been filed in any of the said courts for the relief of insolvent debtors, such person shall be guilty of a misdemeanor; and it shall be

lawful

lawful for any court before which any such person shall be convicted of any such offence by due course of law, to order and adjudge that such person shall be transported to such place and for such term of years as the said court shall direct, or to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct. 1828. 19 July, 9 Geo. 4, cap. 73.

Application of Fines.

(74) And be it further enacted, that whenever any person or persons shall have been ordered and adjudged, under the provisions of this act, to pay any fine for any forgery, perjury, embezzlement, or concealment, and such fine shall have been paid, it shall be lawful for any assignee or assignees in whom the estate and effects of any insolvent or insolvents shall be duly vested, according to the provisions of this act, to apply to the court by which such fine shall have been imposed; and if it shall be proved to the satisfaction of the same court that the creditors for whose benefit the said assignee or assignees shall hold in trust the said estate and effects have been defrauded, or have incurred loss, by means of such forgery, perjury, embezzlement, or concealment, the said court by which the said fine shall have been imposed shall pay the same, after deducting the costs of prosecution, to the said assignee or assignees for the use and benefit of the said creditors: provided always, that if no such application shall be made by such assignee or assignees within one year after any such fine shall have been paid, it shall be lawful for the court by which such fine shall have been imposed, to appropriate, apply, and pay over such fine to such uses, purposes, and persons, and in such manner as any other fine imposed by the same court, for any forgery, perjury, or other crime or misdemeanor, may be lawfully appropriated, applied, and paid over.

Mode of taking Affidavits.

(75) And be it enacted, that all affidavits and affirmations to be used before any court for the relief of insolvent debtors, or any officer of such court, shall and may be sworn and affirmed before such court, or any commissioner or other person appointed by such court for that purpose, or any judge or commissioner for taking affidavits in any of his Majesty's courts of record within the limits of the said United Company's charter, or before any master or master extraordinary in chancery in England or Ireland, or any magistrate authorized to take affidavits or affirmations in Scotland.

Person having had Benefit of Act, not to have it again within Five Years.

(76) Provided always, and be it further enacted, that no person who shall have been at any time discharged by virtue of this act, shall again be entitled to the benefit thereof within the space of five years after such

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such discharge, unless a majority in number and value of the creditors against whom such person shall seek to be discharged by virtue of this act shall signify his, her, or their assent to such discharge, or unless it shall be made to appear to the satisfaction of the court for the relief of insolvent debtors, to which application for such discharge shall be made, that such person has since his or her former discharge endeavoured by industry and frugality to pay all just demands upon him or her, and has incurred no unnecessary expense, and that the debts which such person has incurred subsequent to such former discharge have been necessarily incurred for the maintenance of such person, or his or her family, or that the insolvency of such person has arisen from misfortune, or from inability to acquire subsistence for himself or herself, and his or her family.

General Issue may be pleaded.

(77) And be it further enacted, that if any action of escape, or any other suit or action, shall be brought against any magistrate or officer or any other person, for performing the duty of his office or appointment in pursuance of this act, he or they may plead the general issue, and give this act in evidence; and if the plaintiff shall be nonsuited, or discontinue his or her action, or a verdict shall pass against him or her, or judgment shall be given for the defendant upon demurrer, the defendant shall have treble costs.

Officer of Court to produce Proceedings and give Copies.

(78) And be it further enacted, that the proper officer of the several courts for the relief of insolvent debtors shall, on the reasonable request of any such insolvent as aforesaid, or of any creditor or creditors of such insolvent, or his or their attorney, produce and shew to such insolvent, creditor or creditors, and his, her, or their attorney, at such times as such courts respectively shall direct, every petition, schedule, order of adjudication, and all other orders and proceedings made and had relating to such insolvent, and all books, papers, and writings filed in such matter, and permit him, her, or them to inspect and examine the same, and shall provide for any such insolvent, or creditor or creditors, or his, her, or their attorney requiring the same, a copy or copies of such petition and other proceedings, or of such part thereof as shall be required, receiving such fee as such court shall appoint for so providing the same; and that a copy of such petition, schedule, order, and other orders and proceedings, purporting to be signed by the officer in whose custody the same shall be, or his deputy, certifying the same to be a true copy of such petition, schedule, order, or other proceeding, and sealed with the seal of the said courts respectively, shall at all times be admitted in all courts whatever, and before commissioners of bankrupt and justices of the peace, as sufficient evidence of the same, without any proof whatever given of

of the same, further than that the same is sealed with the seal of such courts respectively as aforesaid. 1828. 19 July, 9 Geo. 4, cap. 73.

Proceedings not liable to Stamp Duty, &c.

(79) And be it further enacted, that no conveyance, assignment, letter of attorney, affidavit, certificate, or other proceeding, instrument, or writing whatsoever, before or under any order of any of such courts for relief of insolvent debtors, nor any copy thereof, nor any advertisement inserted in any newspaper by direction of any such court, relating to matters within the jurisdiction of such court, shall be liable to or chargeable or charged with the payment of any stamp or other duty whatsoever, and that no sale of any real or personal estate of any such insolvent as aforesaid, for the benefit of his or her creditors under this act, shall be liable to any auction duty.

Courts may make Rules for facilitating Relief.

(80) And be it further enacted, that his Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively, shall respectively have power to make all necessary and reasonable rules for facilitating and carrying into effect within their respective jurisdictions the relief intended to be given by this act, in cases for which sufficient provision has not been thereby made.

Continuance of Act.

(81) And be it further enacted, that this act shall continue in force until the first day of March, one thousand eight hundred and thirty-three.

JURIES.

In 1826 Mr. Williams Wynn introduced the Bill which was passed into the Act 7th Geo. IV. cap. 37,* to regulate the appointment of Juries in the East-Indies; the rules and regulations as to the qualification, appointment, form of summoning, challenging, and service of jurors, were passed in pursuance of the provisions of the Act by the Supreme Court of Judicature at Calcutta, on the 29th December 1826.

On the 22d May 1828 Mr. Hume presented to the House of Commons, a petition from certain Hindoos, Parsees, Cingalese, and Mahomedans, native inhabitants of the island of Bombay, objecting to the clause which enacts, that grand juries, and all juries for the trial of persons of the Christian religion, shall consist solely of individuals professing the Christian faith. After a remark from Lord Ashley, that much caution would be requisite in effecting such an essential change as the petitioners prayed for, the petition was brought up, read, and ordered to lie on the table.

On the same day Mr. Hume moved for a copy of the regulations adopted by the Supreme Courts in India, as to natives serving on juries under the 7th Geo. IV. cap. 37. Mr. Hume pressed upon the house the expediency of admitting natives to serve on grand juries, and suggested the propriety of removing the disabilities attaching to them as soon as possible.

Lord Ashley observed, that no official report has yet been received from India respecting the admission of the natives to serve on juries. The only regulations which had reached this country were from the Supreme Court at Calcutta, those should be laid before the house, they had been submitted for the approbation of the King in Council, and it was probable that the other courts were waiting the result before they adopt them.

Mr. Williams Wynn remarked that, with the exception of the

* Noticed in page 115, Analysis.

the petition submitted by Mr. Hume, there was no complaint on the part of the natives. At one time it did appear to him desirable that the natives should be allowed to serve on grand juries, but he had altered his opinion when he reflected what very different ideas prevail amongst them. He would rather allow the experiment already made to take its course, and if it succeed, afterwards extend it. It will be safe and easier to do so hereafter, than at once to carry it to the full extent, and have subsequently to retrace our steps. After some observations from Mr. Fergusson and Mr. Forbes, who both bore strong testimony to the respectability of the natives, the motion was agreed to. The Regulations follow the Act.

LAW.

And be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that all good and sufficient persons resident within the limits of the several towns of Calcutta, Madras, and Bombay, and not being the subjects of any foreign state, shall, according to such rules, and subject to such qualifications as shall be fixed in manner hereinafter mentioned, be deemed capable of serving as jurors on grand or petit juries, and upon all other inquests, and shall be liable to be summoned accordingly; any thing in the said act, or in any other act, charter, or usage, to the contrary notwithstanding.

1826. 5 May, 7 Geo. 4, c. 37.

All persons resident in Calcutta, Madras, and Bombay, qualified as after mentioned, to be deemed capable of serving on Juries.

(2) And be it further enacted, that the respective courts of Judicature at Calcutta, Madras, and Bombay, shall have power from time to time to make and establish such rules with respect to the qualification, appointment, form of summoning, challenging, and service of such Jurors, and such other regulations relating thereto, as they may respectively deem expedient and proper: provided always, that copies of all such rules and regulations as shall be so made and established by such courts of judicature, shall be certified under the hands and seals of the judges of such courts to the President of the Board of Commissioners for the Affairs of India, to be laid before his Majesty for his royal approbation, correction, or refusal; and such rules and regulations shall be observed until the same shall be repealed or varied, and in the last case with such variation as shall be made therein.

Courts may make rules with respect to qualification, &c.

which shall be laid before his Majesty.

(3) Provided also, and be it further enacted, that the

Juries to con-

1826. 7 Geo. 4, c. 37.

the grand juries in all cases, and all juries for the trial of Persons professing the Christian religion, shall consist wholly of persons professing the Christian religion.

sist of persons professing the Christian religion.

Rules relating to Juries in the Supreme Court of Judicature at Fort-William, in Bengal.

Whereas an act has been passed in this seventh year of the reign of his present Majesty, intituled, "An Act to regulate the appoint-"ment of Juries in the East Indies;" wherein, amongst other things, it is enacted, that "the respective courts of judicature at Calcutta, "Madras, and Bombay, shall have power from time to time to make "and establish such rules with respect to the qualification, appoint-"ment, form of summoning, challenging, and service of jurors, and "such other regulations relating thereto, as they may respectively "deem expedient and proper:" the following Rules and Regulations, in pursuance and in explanation of the said act, are laid down and established by the Supreme Court of Judicature at Calcutta, this twenty-ninth day of December, in the year of our Lord one thousand eight hundred and twenty-six.

(1) All men who on any former occasion have served on Juries in the Supreme Court, and all who are resident householders within the town of Calcutta, and occupy any house or tenement of the monthly value of fifty rupees, or of the annual value of five hundred rupees, or whose property or interests in lands, tenements, or goods would be worth the sum of five thousand rupees, after the payment of their just debts, are qualified and liable to serve on juries in the Supreme Court, except such persons as are hereinafter excepted.

(2) Those persons are incapable of serving on Juries in the Supreme Court who hold any office in or under the said court, or receive or seek to receive any pay or emolument for any employment in or under the said court, or under any officer thereof, or for execut ing any duties of police within the town of Calcutta, or who are the subjects of any foreign state, or who are under the age of twenty-one years, or who are attainted of treason or felony, or who have been convicted of any fraudulent or infamous offence without having obtained a free pardon, or who are under outlawry or excommunication, or who are lunatics or idiots, or who a reunable to read, write, and understand the English language: and inasmuch as there are parts of the proceedings upon trials in the Supreme Court which have not usually been translated by the interpreters, and which could not be translated without great difficulty and inconvenience, the sheriffs and clerks of the crown are forbidden to insert in their lists the names of any natives of whose competence to understand the English language they have not experience or sure knowledge.

(3) No person who does not profess the Christian religion is qualified

fied to serve on any grand jury, or on any jury for the trial of a person who does profess that religion.

(4) These persons are exempted from the liability to serve on juries; namely, the Governor-general and all peers; the members of council, and the secretaries and deputy secretaries of the government; the judges and officers of the court of Sudder Adawlut and the Calcutta Provincial Court of Appeal and Circuit; the senior members and the principal secretaries to the Boards of Trade, Revenue, and Customs, and of the Sudder Special Commission; the accountant-general and the sub-treasurer for the time being, and the secretary to the Bank of Bengal; all officers of the army, navy, or marine of his Majesty or the Honourable Company; all persons employed in the pilot service of the Honourable Company; all clergymen, and all such dissenting ministers as are actually attached to or employed in any public place of religious worship, and who follow no other secular employment but that of teaching; all brahmins, moollahs, and other Hindoos and Mahometans actually officiating as priests in their respective religions; all physicians, surgeons, and apothecaries, actually practising as such; all domestic servants, and all persons above sixty years of age, or who are afflicted with any great infirmity of body or mind.

(5) All covenanted servants of the Honourable Company's civil service; all persons who according to the usage of England are entitled to the style and addition of esquire, or of any higher degree, or who shall be described in the lists hereinafter mentioned as merchants or bankers; all persons whose claims to the title of rajah, or to have about them any insignia of equivalent rank, have been formally acknowledged by the government, or whose rank or superiority of caste, according to the usage of their tribe or religion, would prevent them from sitting on common juries, or whose property or interest in lands, tenements, or goods would be worth two hundred thousand rupees after the payment of their just debts, shall be exempted from serving on any other than special or grand juries; provided always, that if any person who is entitled to this exemption shall be willing to waive the same, and to serve on common juries, an entry to that effect shall be made in a separate column upon the lists and book hereinafter mentioned, and the party shall be deemed to be qualified and liable to serve both on special and on common juries.

(6) In the months of January and February in every year, the sheriff and clerk of the crown shall, by all lawful means, make inquiry throughout the town of Calcutta, and shall severally prepare, to the best of their ability, knowledge, information, and belief, full and accurate lists, in alphabetical order, of all persons who are qualified and liable as aforesaid to serve on juries; and such lists, according to the form of the schedule annexed to these rules, shall contain in separate columns opposite to each person's name, his proper style, addition, or calling, his place of residence, the country of his birth, his religious profession, and his qualification to serve on juries, and the ground of

 his

his privilege, if any, to serve on grand or special juries only; provided always, that in stating the religious profession of any person, it shall be sufficient to say Christian, Mahometan, Hindu, or the like, without specifying the particular church or sect of the party.

(7) The sheriff and the clerk of the crown on the first day of March, unless it happen on a Sunday, and then on the following day, shall deliver to the Supreme Court, or to the chief justice, or, in his absence, to the senior judge, their several lists so made as afore-mentioned, signed by themselves; and the same lists, after inspection by the court or judge, shall be redelivered as soon as conveniently may be to the clerk of the crown, who shall compare the two lists, and if need be, shall make further inquiry, and before the end of the month of March shall make out one fresh list in alphabetical order, and in similar form to the two first, which fresh list he shall sign and attest with his hand and seal, as a true and perfect list, according to the best of his knowledge, information, and belief, of all persons qualified to serve as jurors in the Supreme Court, and shall cause the same to be published twice in the month of April, in the government gazette, or some other newspaper published in Calcutta.

(8) The clerk of the crown on every day in the month of May in which any judge shall sit in chambers, shall attend at the court-house with the last-mentioned list, and every person whose name is improperly inserted or omitted, or who is wrongly or defectively described, may apply, or in case of any such person neglecting or refusing to comply, the clerk of the crown may apply to the sitting judge, who either on the oath of the party himself, or of the clerk of the crown, or on examination of witnesses, may order the list to be corrected by the clerk of the crown; and in case of any such correction having been made, the list shall be recopied and finally perfected and attested by the clerk of the crown, and once more published in the *Government Gazette*, or some other paper, in the first fortnight of the month of June.

(9) The clerk of the crown shall place the said last-mentioned list amongst the records of the Supreme Court, and shall cause the same to be fairly and truly copied in the same form in a book, and before the end of the month of June shall deliver the said book to the sheriff, who on quitting his office shall deliver it to the succeeding sheriff; and excepting such alterations as at any time, upon motion in open court, may be directed by the court to be made in it, the said book, so prepared in each year as aforesaid, shall, from the 1st of July in the same year, for twelve months next ensuing, be deemed and taken to be a true list of all persons qualified and liable to serve on juries in the Supreme Court, and the same persons shall be summoned to serve as jurors, and no other; and the Supreme Court, by virtue of its authority under the IV. XIX. and XXXIX. clauses of the letters-patent of the 26th March 1774, and according to the exigence of the aforementioned act of the seventh year of the reign of his present Majesty,

Majesty, intituled, "an Act to regulate the Appointment of Juries in "the East-Indies," and with a reference to the provisions of another act passed in the sixth year of the reign of his present Majesty, intituled, "an Act for consolidating and amending the Laws relative to "Jurors and Juries," requires of all justices of the peace, and constables and other officers employed in the conservation of the peace, and of all persons having in their keeping or possession any public books of assessment or registry, that for the purpose of enabling the sheriff and clerk of the crown to form and perfect the aforementioned lists, they be aiding and assisting unto them.

(10) The sheriff, out of the names contained in the book aforementioned, shall summon for each sessions thirty-six of those who are qualified and liable to serve on grand juries, and sixty of those who are qualified and liable to serve on petit juries, and every summons shall be served one week at least before the first day of the sessions at which the party summoned is to attend: and of each of the panels returned by the sheriff, one-half at least must be of that class of persons who have heretofore been designated in the statutes relating to India by the term "British subject," and in like manner one-half of the jury shall in every case consist of such British subjects.

(11) Upon motion made on behalf of the king or of any prosecutor or defendant after issue has been joined upon any indictment or information for any misdemeanor, the court, if the case shall appear to require it, will order a special jury to be struck before the clerk of the crown, and for this purpose the sheriff or under sheriff shall, within ten days after the delivery of the juries book for the current year, to either of them, take from such book the names of all men who shall be described therein as liable to serve on grand or special jurors only, and shall cause the names of all such persons to be fairly and truly copied out in alphabetical order, together with their respective places of abode and additions, in a separate list to be subjoined to the jurors book, which list shall be called "the Special Jurors "List," and shall prefix to every name in such list its proper number, beginning the numbers from the first name, and continuing them in a regular arithmetical series down to the last name; and shall cause the said several numbers to be written upon distinct pieces of parchment or card, being all, as nearly as may be, of equal size; and after all the said numbers shall have been so written, shall put the same together in a separate drawer or box, and shall there safely keep the same; and whenever the court shall order a special jury to be struck, the clerk of the crown shall appoint a time and place for the nomination of such special jury, and a copy of the rule of the court shall be served on the under sheriff, and also on all the parties on whom it has been usual to serve the same in England; and the clerk of the crown, at the time and place appointed, being attended by the under sheriff or his agent, who are hereby respectively required to bring with them the jurors book and such special jurors list, and all the numbers so

written

written on distinct pieces of parchment or card as aforesaid, in the presence of all the parties, and of their attornies (if they respectively choose to attend, or if the said parties or their attornies, all or any of them, do not attend, then in their absence), put all the said numbers into a box, to be by him provided for that purpose, and after having shaken them together shall draw out of the said box forty-eight of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the special jurors list, and read aloud the name designated by such number; and if at the time of so reading any name, either party or his attorney shall object that the man whose name shall have been so referred to is in any manner incapacitated from serving on the said jury, and shall also then and there prove the same to the satisfaction of the clerk of the crown, such name shall be set aside, and the said officer shall instead thereof draw out of the said box another number, and shall in like manner refer to the corresponding number in the said list, and read aloud the name designated thereby, which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding described for the purpose of supplying names in the places of those set aside, until the whole number of forty-eight names not liable to be set aside shall be completed; and if in any case it shall so happen that the whole number of forty-eight names cannot be obtained from the special jurors list in such case the clerk of the crown shall fairly and indifferently take, according to the mode of nomination heretofore pursued in England in nominating special juries, such a number of names from the general jurors book, in addition to those already taken from the special jurors list, as shall be required to make up the full number of forty-eight names, all and every of which forty-eight names shall in such case be equally deemed and taken to be those of special jurors; and the clerk of the crown shall afterwards make out for each party a list of the forty-eight names, together with their respective place of abode and additions, and after having made out such list, shall return all the numbers so drawn out, together with all the numbers remaining undrawn, to the under sheriff or his agent, to be by such under sheriff safely and securely kept for future use; and all the subsequent proceedings for reducing the said list, and all other matters whatsoever relating to special juries, shall be conducted in the same manner as in England; and the person or party who shall apply for a special jury, shall pay such fees for striking such jury as shall be prescribed by the court.

(12) When it shall appear to the court, or to any judge thereof in vacation, that it will be proper and necessary that some of the jurors who are to try the issue in any case should have a view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues, in every such case the court, or any judge thereof in vacation, may order a rule to be drawn up, containing the terms usual in England, and also requiring, if such court or

or judge shall so think fit, the party applying for the view to deposit in the hands of the under sheriff a sum of money, to be named in the rule, for payment of the expenses of the view, and commanding special writs of *venire facias*, *distringas*, or *habeas corpora*, to issue, by which the sheriff to whom the said writs shall be directed shall be commanded to have six or more of the jurors named in such writs, or in the panels thereto annexed (who shall be mutually consented to by the parties, or if they cannot agree shall be nominated by the sheriff), at the place in question, some convenient time before the trial, who then and there shall have the place in question shown to them by two persons in the said writs named, to be appointed by the court or judge; and the sheriff shall, by a special return upon the same, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers; and those men who shall have had the view, or such of them as shall appear upon the jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who shall appear, as shall, after all defaulters and challenges allowed, make up a full jury of twelve.

(13) In all cases wherein the king is a party, notwithstanding it be alleged by them that sue for the king, that the jurors or some of them be not indifferent for the king, yet the inquest shall not remain untaken for that cause; but if they that sue for the king will challenge any of those jurors, they shall assign of their challenge a cause certain, and the truth of the same challenge shall be inquired of according to the usage in England, and it shall be proceeded to the taking of the same inquisitions, as it shall be found, if the challenges be true or not, after the discretion of the court; and no person arraigned for murder or felony shall be admitted to any peremptory challenge above the number of twenty.

(14) There shall be no award that any of the by-standers be sworn upon the jury in any case, except it be by consent of all the parties in the case.

(15) No verdict shall be set aside, or in any way affected, for any cause which might have been cause of challenge at the trial; nor shall any writ of attaint be prosecuted against any jury or jurors for their verdict, nor against any party who shall have judgment on such verdict; but any person who shall be guilty of the offence of embracery, and every juror who shall corruptly or wilfully consent thereto, shall be punishable as heretofore.

(16) At each sessions the clerk of the crown shall make a minute of the names of those who shall serve at such sessions, and immediately after shall give a copy of the same to the under sheriff; and no juror who has served shall be summoned again within twelve months, unless for want of other jurors.

(17) All those who shall be lawfully summoned to serve on juries, and shall wilfully neglect to attend, shall be punished as for a contempt, unless upon motion made it shall be shown to the satisfaction of

of the court that the name of the person ought to be erased from the sheriff's book, or that such a material alteration should be made in the entry thereof in the said book, as would have excused the party from attending in obedience to the summons.

(18) The sheriff and clerk of the crown shall not be answerable for any casual errors; but for wilful omission, false insertion or description, or vexatious summoning, they shall be punishable as for a contempt.

PARLIAMENT.

1826. Writers.

On the 16th March Mr. Williams Wynn obtained leave to bring in a bill for the appointment of parties as writers to India, although they may not have passed four terms at the College, as required by the 53d Geo. III. cap. 155. The same was passed into an act on the 26th May, the provisions of which were to continue for the term of three years from that date. Vide WRITERS.

Permission was likewise given for the introduction of another bill, in order to remove doubts as to the payment of allowances of officers dying whilst absent from India. The same was passed into an act on the 26th May. Vide page 613 of the Analysis.

Juries in India.

In the same month Mr. Wynn also brought in the JURIES IN INDIA bill, which passed into a law on the 5th May. Vide Juries.

In the month of April another bill relating to the Company, *viz.* the *East-India Naval Force* bill, was brought in, to provide for the payment by the Company of any additional expense incurred on account of any naval force sent out to India on the requisition of the Court of Directors: it was passed into an act the 7th Geo. IV. cap. 52.

Mr. Buckingham.

On the 9th May Lord John Russell presented a petition from Mr. J. S. Buckingham, in which that gentleman detailed the circumstances of his case, and represented the hardships and sufferings which he had experienced. He stated that his appeals for redress had hitherto been ineffectual; and he therefore implored the House to take his case into consideration, and grant him such relief as they might see fit. Lord John Russell stated that his original intention was to have moved that the petition be laid on the table, but in consequence of what had fallen in the course of the discussion, he moved to refer it to a Select Committee, which motion was carried by a majority of forty-

forty-three to forty. On the 11th, when Lord John Russell moved that the Committee be empowered to send for persons, papers, and records, Mr. Williams Wynn said that with great propriety he might move that the order made on the 9th instant be rescinded, upon the ground that there had been no notice of the motion which the noble Lord had carried: he however abandoned the intention, because the case was one in which an individual complained of having suffered great hardship. After observations from several members as to the regularity and fairness of the course which had been adopted, the names of Mr. Abercromby and Sir Charles Forbes were added to the Committee on the motion of Lord John Russell; when Mr. Wynn moved that Mr. Stuart, Colonel Baillie, Mr. W. Peel, Sir E. H. East, Mr. Ross, Lord G. Somerset, Mr. Wellesley, and Col. Lushington, be added to the Committee. This proceeding called forth some observations from Lord John Russell, who contended that it was not fair to introduce the names of a number of persons who had either places under the crown, or who were connected with the East-India Company; and remarked, "that the right hon. gentleman's ancestor, Mr. Speaker Williams, did he preside in the chair, would be ashamed of a Committee thus partially selected."

Mr. Peel observed, that Mr. Speaker Williams would rather be ashamed of the manner in which the Committee had been selected on Tuesday, than of the addition proposed to be made to it.

The names proposed by Mr. Williams Wynn were then added to the Committee. In pursuance of an order of the Committee a large collection of papers, comprising the whole of the proceedings which had taken place on Mr. Buckingham's case, were prepared, and forwarded from the India-House on the 18th May. Parliament was dissolved on the 31st of that month.

Burmese Treaty.

On the 4th November the treaty of peace with the Burmese government was presented to the house, and ordered to lie on the table.

Notice of Thanks to the Indian Army.

On the 27th November Mr. Williams Wynn gave notice of his intention, after the holidays, to submit motions of thanks to the army in India, for their services in Ava and at Bhurtpore.

On

On the 21st March a petition from the merchants of Bristol was presented, representing the distressed state of the several branches of the commercial and manufacturing interests, and praying that the house would consider the propriety of rendering the commercial intercourse between this country and its eastern dependencies as unrestricted as that which subsists with the most favoured of its colonies. 1827. Petition from the Merchants of Bristol as to Indian Trade.

On the 22d March Mr. Hume moved that there be laid before the House a copy of the report from Sir Edward Paget, the commander-in-chief, to the Governor-General in Council at Calcutta, respecting the mutiny at Barrackpore, and the measures adopted to suppress it. The motion was negatived by 176 to 44. Barrackpore Mutiny.

On the 7th May 1827, accounts of the revenues and charges in India from 1822-3, also of the territorial debt owing by the Company, were presented to the House. Accounts of the Revenue and Charges.

On the 8th May the House of Commons voted thanks to the forces employed against Bhurtpore and in Ava. Thanks to the Army.

On the 10th May further revenue accounts were presented.

On the 15th May Mr. Wolryche Whitmore, in pursuance of the notice given by him, moved for the appointment of a Select Committee to inquire into the trade between Great Britain and India. Mr. Whitmore had incidentally entered upon the subject on a former occasion, when he introduced a proposition for an equalization of the rate of duty on East and West-India sugars. On the present occasion he entered into a comprehensive view of the general commercial advantages which he conceived was to be derived from an extension of the trade of this country with India. The motion was seconded by Mr. Slaney. Trade with India.

In the course of the discussion considerable stress was laid, by other members, upon the expediency of repealing the high duty on East-India sugar. Mr. Huskisson, in expressing his conviction that the objects contemplated by Mr. Whitmore would be best attained by abstaining at present from an inquiry, which would be more beneficial at a future period, admitted that it was the interest and duty of a commercial country like this, to endeavour to open new channels and to afford new increased facilities to those that were already open:

but

1827. Trade with India. but it was its duty likewise, in giving encouragement to individual enterprize and to new commercial speculations, to be cautious not to sanction any measure which might endanger or destroy established interests and rising institutions, especially institutions of our own creation, connected with our interests and specially entitled to our protection. It would readily be allowed that all extensive changes were attended with great difficulty, and should be proceeded in with circumspection and a due regard to other general interests already widely established, and that therefore whatever new measures or new systems were introduced, they should be regulated in such a manner as that, in endeavouring to effect improvements for some, no sacrifice of essential import should be required from others. Mr. Williams Wynn hoped, that as measures had latterly been taken with relation to the subjects adverted to, the motion would be withdrawn. Under an assurance that the subject was one which would receive due consideration at the hands of the right hon. gentleman, Mr. Whitmore withdrew his motion.

Duties on East and West-India Produce. On the 15th, 21st, and 30th, various petitions were presented to the House for equalizing the duties on East and West-India produce.

Papers as to Suttees. On the 17th May, copies and extracts of various proceedings relative to the burning of widows on the funeral pile of their husbands were presented to the House, in pursuance of an order of the 21st February last.

Revenue Accounts. On the 25th May the annual East-India revenue accounts were produced.

Appeals. On the 2d June a return of all colonial or plantation and East-India appeals, and all appeals lodged between 1st January and 31st December in each year since 1814, disposed of and undisposed of, was laid before the House of Commons. Papers as to slavery were also presented to the House.

Motion to prevent Suttees. On the 4th June Mr. Fowell Buxton gave notice of a motion for the 18th, to prevent the immolation of Hindoo widows.

Landed Property in India. On the 21st June Mr. Fergusson submitted a motion regarding landed property in India, which owing to the late period of the session was withdrawn. It was brought forward in June 1828, and passed into a law on the 27th of that month. *Vide* Real Estate.

On

On the 4th February sundry accounts relative to raw and thrown silks, also as to bandannoes, were ordered by the House of Commons. 1828.

Accounts of Exports and Imports.

On the 18th February accounts were ordered of all articles exported from the United Kingdoms of Great Britain and Ireland to the East-Indies in each year, from 15th January 1820 to 5th January 1827, and of all articles imported from the East-Indies into the United Kingdom in each year, from 5th January 1820 to 5th January 1827.

Account of Shipping, &c. ordered.

On the 11th March a return was ordered of the number of ships cleared out from the different ports in the United Kingdom for British India in each year, from 1801 to 1826 both inclusive, specifying their tonnage, the number of seamen employed in navigating them, whether British or Indian, and distinguishing the ships belonging to or chartered by the East-India Company from those of private merchants.

Account of Trade, &c. ordered.

East-India Trade.—Accounts were ordered " of the number " of ships, with the amount of their tonnage, which have " entered inwards and cleared outwards at the several ports of " Great Britain, from and to the East-Indies, in each of the " five years ending 5th January 1828.

" Of all goods exported from Great Britain to the East- " Indies and China, in each of the five years ending 5th " January 1828.

" Of the value of all articles, being of the growth or manu- " facture of the United Kingdom, exported by the East-India " Company in each of the five years ending 5th January 1828.

" Of all goods, the produce of the East-Indies and China, " imported into and exported from Great Britain in each of " the five years ending 5th January 1828.

" Of the amount of duties of customs received upon goods " imported from the East-Indies, in each of the five years end- " ing 5th January 1828.

" Of all goods of the produce of the East-Indies and China, " imported into Great Britain in each of the five years ending " 5th January 1828, specifying the quantity and value of the " principal articles imported.

" Of all goods exported from Great Britain to the East- " Indies and China in each of the five years ending 5th Janu-

" ary

1828. Account of Trade, &c. ordered.

" ary 1828, specifying the quantity and declared value of the " principal articles exported."

On the same day, an account of tea imported and exported and retained for home consumption in Great Britain in 1826 and 1827 was ordered.

On the 14th March regulations passed by the Indian governments were presented to the House.

On the 17th April an account of raw-silk sold at the East-India Company's sales for five years ending January last, was presented to the House.

Mr. O'Reilly.

On the 18th April Sir James Mackintosh brought before the House the case of Mr. Miles O'Reilly, who claims reparation for mischief he states to have sustained from the Directors of the East-India Company. This case arises out of the insolvency of Mr. Ricketts, the late registrar of the supreme court at Madras, upon which subject a collection of documents were laid before the House on the 25th June and 7th July 1827.

Criminal Law.

On the 22d May Mr. Williams Wynn gave notice of his intention to move, on the 3d June, for leave to bring in two bills, one for the extension of the late improvements in the criminal laws to India, and the other to extend the benefit of the insolvent act. The bills were brought in and read the first time on the 6th June, and were passed into a law on the 25th July.

Debtors in India.

Mr. Hume submitted a motion for a return of the number of persons confined for debt in the gaols at Calcutta, Madras, and Bombay, in each of the years 1826 and 1827, or either of them, stating the number of years each person has been in confinement, and whether at the suit of government or individuals; and at the same time stated that his object was, to induce both the House and the government to carry into effect those measures of redress which were necessary.

Mr. Williams Wynn observed, that he had already given notice of his intention to move for leave to bring in a bill for the relief of insolvent debtors in India. After some remarks by Sir Charles Forbes and Sir James Mackintosh as to the evils consequent upon imprisonment for debt in India, the motion was agreed to. The bills were introduced on the 6th June, and passed into a law the 13th and 25th July; vide INSOLVENT DEBTORS and CRIMINAL LAW.

On

On another motion made by Mr. Hume, a copy of the table of fees sanctioned by the courts, and charged by the officers of his Majesty's Supreme Courts of Judicature at Calcutta, Madras, Bombay, and Prince of Wales' Island, were ordered. 1828. Account of Fees in Supreme Courts in India.

On the same day Mr. Hume presented a petition from certain native inhabitants of the Island of Bombay against the clause which enacts that all juries for the trial of persons of the Christian religion shall consist solely of individuals professing the Christian faith.

On the 4th June a motion was submitted by Mr. Hume, for a copy of the memorial presented by the merchants of London trading to India, in February last, to the Court of Directors of the East-India Company, respecting the stamp tax lately imposed in Calcutta on commercial transactions; and a copy of any answer from the court to that memorial, and for a return of the amount revenue received from stamps in India in the years 1823-4 and 1825-6, under certain heads, was agreed to. The said memorial and accounts were presented to the house on the 16th June. Stamp Tax.

On the 10th June Mr. Astell obtained leave to bring in a bill for regulating the proportions of unclaimed prize-money acquired by soldiers or seamen in the East-India Company's service. The bill was brought in and read a first time the same day, and received the royal assent the 15th July. Unclaimed Prize Money.

On the 16th June the Marquess of Lansdowne presented to the House of Lords a petition from the merchants, traders, and inhabitants of Calcutta, relative to the stamp duties imposed there by order of the government. His Lordship did not offer any opinion on the important legal question arising out of the complaints, or on that course of policy which the government of India, as he was bound to suppose on some sufficient authority, had thought proper to pursue. The petition having been read, Viscount Melville remarked that any observation which he might make, was not offered with any view to defend the authorities in Calcutta against any charge so far as regards the petition. What had been done was done under an act in the propriety of which he fully concurred. The legality, his Lordship contended, was founded upon the 53d of the late king, by which both duties and taxes are allowed Petition against Stamp Tax.

to

1828. Petition against Stamp Tax.

to be imposed; and the Supreme Court had unanimously decided that the imposition was lawful. An appeal lies to the King in Council, who will of course either reverse or confirm it as the case may require. The power was known to be possessed by the government in India. The measure had been sanctioned by the Board when Mr. Canning was at its head; and as to the government having interfered to prevent the inhabitants from meeting to express their opinion, they had only obeyed the orders which they had received from home; and that Lord Petty himself, in 1806, when a member of the board, approved of instructions to the Bengal government to prevent any such tumultuous proceedings.

The Earl of Darnley considered the subject of the petition deserving attention.

The Marquess of Lansdowne admitted the legality of the act, but remarked that, with reference to the order to prevent such meetings being signed by a certain individual, such an *argumentum ad hominem* ought not to have been applied, as the party alluded to could only have signed it as an individual member of the Board. The petition was ordered to lie on the table.

On the 17th June Sir James Mackintosh presented a petition to the House of Commons on the same subject from the inhabitants of Calcutta, against the tax in question. On this occasion the right hon. and learned member entered into a general review of the comparatively disadvantageous circumstances under which the British inhabitants of Calcutta are placed; pointing out the impolicy of the measure, and deprecating the haste and little consideration with which subjects connected with India, and more especially at the several periods of 1773, 1783, 1794, and 1813, have been passed through Parliament.* The petition having been read, Sir James Mackintosh moved that it be referred to a select committee. Upon which Mr. Williams Wynn doubted whether, if a select committee was appointed, the objects enumerated in the speech of his right hon.

* With reference to the right honourable and learned gentleman's statements, vide "Preliminary Observations."

hon. friend could, in the slightest degree, be obtained. After adverting to several of the topics touched upon by Sir James Mackintosh, Mr. Wynn submitted whether it was possible, on so limited a question as that of the stamp regulation, to engraft the general extensive question of what restrictions are advisable on the commercial and other intercourse between this country and India. He did not think any inquiry was necessary into the subject of the petition, and saw no grounds which would warrant an examination of the question.

1828. Petition against Stamp Tax.

Mr. Hume entered at considerable length into the subject, and animadverted upon the general system under which the affairs of India are administered. He believed the Directors to mean well, but said the system they follow is a bad one. Instead of following what he might call the golden rule of Buonaparte, the court reject every information except what comes to them through their own special sources. He also thought colonization might be permitted without fear.

Mr. Astell remarked, that the legality of the question was set at rest. As to the charge of the Directors not attending to private information, he felt that they would ill discharge their duty if they would proceed on such grounds. It is well known that nothing is either done or declined on private information. The Government of India as at present constituted he conceived to be the best that circumstances would admit, and the proof of its excellence is to be discovered in the gradual and progressive improvement of that country. As to a more extended resort to India of Europeans, the misfortune was that too many went out who had neither capital nor reputation to insure them a chance of doing anything else than ending their days in poverty.

As to the resort of persons to India, the principle on which many applications were refused was this, that the situations of clerks and others in mercantile houses were occupied by half-castes, and it would be hard that Europeans should infringe on their employment. Permission has been given on the application of any respectable responsible houses, and he might fairly say that in every instance in which it could be shewn there was a power of furnishing employment, licenses have been given. The local government has also granted many. The motion for a Select Committee was then withdrawn.

1828. Petition against Stamp Tax.

East-India Exports and Imports.—Accounts were ordered, "shewing the real and official value of the exports from the "United Kingdom to the East-Indies and China, together "with the Mauritius, for the year ending 5th January 1828, "specifying the respective quantity and value of each article "so exported, distinguishing the East-India Company's trade "from the private trade."

"Showing the official value of the imports into the United "Kingdom from the East-Indies and China, together with the "Mauritius, for the year ending 5th January 1828, specifying "the respective quantity of each article so imported, distin- "guishing the East-India Company's trade from the private "trade."

"Of the amount of duties received on goods imported into "the United Kingdom from the East-Indies and China, toge- "ther with the Mauritius, for the year ending 5th January "1828."

Shipping. On the same day an account of the number of ships belonging to the British empire, distinguishing those belonging to the Mauritius, Bombay, and Calcutta, was laid before the House.

Mutiny Act Bombay Marine. On the 30th June, on the motion of Mr. Astell, the act of the 4th Geo. IV. cap. 81, was read, and a bill was ordered to be brought in by Mr. Astell, Lord Ashley, and Mr. Williams Wynn, to extend the provisions of the East-India Mutiny Act to the Bombay Marine. The bill was brought in, read a second time on the 3d instant, and received the royal assent on the 19th July. *Vide* BOMBAY MARINE.

Silk Trade. On the 14th July a petition was presented by Mr. P. Thompson from merchants trading to the East-Indies, praying that the duties on the importation of foreign silks might be kept at thirty per cent. after the 30th October next. On the same day a discussion took place on the proposition for continuing for another year the duties imposed by the act of 1826. It was contended by the opponents of the measure that a pledge was given that the duty should not exceed thirty per cent. A division took place, when the clause containing the present duties for another year passed by 37 to 34.

On the 18th July papers relating to infanticide were presented to the House of Commons.

PATRONAGE,

SALE AND BROKERAGE OF PROHIBITED.

PRIOR to the year 1809 the only laws relating to the sale and brokerage of offices were the act of the 12th of Richard II., which went to prevent the officers of justice appointing improper persons; and the act of the 5th of Edward VI., which prohibited the sale of those offices. In the course of the investigation which was instituted into the offices of the Commander-in-chief, in the month of February in that year, it was stated by a Mr. Donovan that he had offered a writership to India for £3,000. Mr. George Smith, one of the directors of the East-India Company, in consequence of such statement, moved on the following day (10th February) in his place in the Ho use of Commons, for the appointment of a committee to inquire into the abuses of East-India patronage. The motion was seconded by the late Mr. Grant, then Deputy Chairman of the Court of Directors, who stated that nothing could be more satisfactory to the Court as a body than such an inquiry, and hoped it would be conducted in the purest and most impartial mode, and that none of those concerned in the interests of the Company would be appointed members of the committee. Mr. Smith said, that though it was usual for the mover to be one of the members of a committee, he begged on that occasion to be excused.

A committee of fifteen was immediately appointed by the house. The Court of Directors passed a resolution, that the Chairman of the Court should communicate to the Chairman of the said committee the earnest wish of the Directors to contribute all in their power to the prosecution of the investigation for which the committee of the House of Commons had been appointed, and to give the committee every information which the records of the Company enabled them to furnish,

as well as to meet individually any inquiries which the honourable committee might judge fit to propose to them.

On the 23d March Mr. Bankes, chairman of the committee of the House of Commons, brought up the Report, which was ordered to be printed.

The committee stated: " It is a satisfaction, throughout " the whole evidence, to remark nothing which traces any " one of these corrupt or improper bargains to any Director, " or induces a reasonable suspicion that it was done with the " privity or connivance of any member of that court.

" If this House should in its wisdom adopt any legislative " measures for the purpose of preventing all traffic in the " disposal of offices under Government, it will, in the opi- " nion of your committee, be proper to extend the same pro- " tection to patronage held under the East-India Company: " but they see no reason to recommend any special or separate " provisions as applicable to their case, judging that the East- " India Company has within its own power the most effectual " means for accomplishing that end."

In consequence of the practices disclosed in the course of the examinations by the House of Commons and by the Committee, Mr. Perceval, on the 27th March 1809, moved for leave to bring in a bill to prevent the sale and brokerage of offices. He stated that the practice consisted, not in the sale of offices by those who had the power to give them away, but in the arts of those who pretended to have influence over such persons, and issued public advertisements, giving occasion to the notion that these abuses prevailed to a much greater extent than they actually did. This was the description of abuse which the law had in contemplation. He had already mentioned that persons in a certain office who had carried on this trade were under prosecution. As there were several persons in that concern, they were prosecuted for a conspiracy; but if there had been only one individual, he did not see how the law, as it then stood, could have reached him. The material point would be to make it highly penal to solicit money for procuring offices, or to circulate any advertisement with that view. Such a circumstance would go farther than any other to check the

the abuse. His object was not to trench on the exceptions to the sale of offices that were expressly admitted of. Leave was given to bring in the bill. On the 18th April Lord Folkstone submitted a motion to the House, for the appointment of a committee to inquire generally into the existence of corrupt disposal of offices in the State, &c. His Lordship thought it impossible, in reading the evidence of the East-India Committee, not to see that there were other abuses in the various departments of the State, and that those abuses were proceeding to a very great extent.

Mr. Perceval was of opinion that such an inquiry could not go to an investigation into the conduct of every individual who might have by chance been concerned in the disposal of any offices. There might be a variety of instances in which persons might have erected themselves into a sort of agency concern, misrepresenting themselves to be authorized by this person and the other who had power to dispose of offices, while with such persons they had no concern, and in this manner might procure money under the pretence of using their interest with the person who had the actual power of disposing of the office in question, while of this proceeding the person having the gift of the office was utterly ignorant. On the subject there was a bill before the House. He hoped it would be found adequate to every object which might seem to be required; at all events, it would be in the power of the House and of the noble Lord himself to consider how far it should be extended. He was therefore of opinion that, on the whole, the inquiry proposed would neither be beneficial nor politic. No particular statement of delinquency had been brought forward, and to a general statement the House could not listen, especially after the Parliamentary inquiry which had lately taken place.

Lord Henry Petty did not think that a prospective measure was all that was requisite; and though he agreed with the noble Lord who brought forward the motion in thinking that some further inquiry was necessary, he differed from him on the motion as worded.

He came down to the house expecting that the motion would be for a reference to a Committee to inquire into certain facts

contained in the minutes of evidence, and pointed out by the House to the Committee to be by them inquired into. As the motion stood, however, it would be for every member of that Committee to suggest to the Committee what facts they should go into. This was a power which the noble Lord contended could not be given to any Committee, as the House was not entitled to part with any of the powers which it could exercise itself; and he submitted, if there was any power which it could delegate to a Committee, which would not be better exercised by the House itself. If he looked to the motion, it extended to every thing and to every department. He did not say that it would not be right that such investigation should take place if the particular facts to be inquired into, and on which the reference to a Committee was founded, were pointed out and referred to; but he could not agree to confide so general and extensive a power to any Committee. His Lordship was willing to support any specific motion founded on any specific fact developed in the minutes of evidence, whether the motion were made by the noble Lord or by any person else. He was disposed for inquiry of every kind; but when he looked to such instances as his memory furnished him with of the House instituting general inquiries, he could not forbear from thinking that they almost all proved abortive.

Mr. Tierney observed, that the object of the motion was no less than to arraign the whole system of the Government of the country through all its departments. He did not think that a motion of this vague and general complexion ought to be entertained. He admitted that where a specific case was stated, it would be disgraceful to the House to blink at it; but while the House attended, as it was bound to do, to the interest of the people, it would always recollect that it owed something to the government of the country. Was this a mode of proceeding which any one would venture to propose with regard to an individual? If not, why should a different principle be entertained with respect to the government? The noble Lord, he supposed, had some cases in contemplation, for he could not imagine that he would propose the appointment of a Committee without having something to lay before them. But why did he not tell the House what these cases were? He conceived it

to

to be impossible to accede to a motion put in these general terms, embodying suspicion, as it were, against the whole of the government of the country. He differed from the gentlemen opposite on many important political subjects, but neither with respect to them, nor with respect to any man, could he agree to this vague sort of motion. He himself had been in office; he knew the responsibility attached to the situation, and was ready to meet any accusation if fairly stated. But this motion extended back—how far nobody knew—and was calculated to put all those who for a great number of years back had been employed in public situations upon their trial, many of whom were precluded, in the course of nature, from giving those explanations that might be necessary to defend themselves against charges, or to prevent suspicion. He did not wish to throw a veil over delinquency; all he wished was that the delinquency and the nature of the evidence should be stated; that the charges should be specifically mentioned, and the individuals named against whom they were to be preferred, and then the House would consider whether the motion was such as ought to be entertained. Even on the ground of precedent, he did not think that this was a proper mode of proceeding. His hon. friend (Mr. Whitbread) had said that the House might watch over the proceedings of the Committee. But the House could not know what the committee was about till they reported. He gave the noble Lord credit for the most honest and upright intentions; and after what had come to light, he could blame none for being desirous of inquiry; but the House ought not to depart from the ordinary grounds of its proceedings. The motion assumed that the government was corrupt through all its departments, and this without pretending to state any evidence. Even in the abuses that had been found to have been carried on in the patronage of the East-India Company, there was nothing that related to the public government of that department—nothing that was brought home to the House of Commons. The abuses at most reached only to the Court of Directors, who were governed by a separate law; and he was even surprised that a Committee on the abuses in the patronage of the Directors had been granted. These abuses were of a description amenable to law, and to this they ought

ought to have been turned over. If any abuses had been discovered to have existed in the public government of the East-India Company, that, no doubt, would have been a proper subject of Parliamentary inquiry. In the minutes of evidence, the existence of abuses at the Horse-Guards had been made out; but this was the only point of which the noble Lord proposed to keep clear. His motion went to impute corrupt practices to the Admiralty, and every other department of the government, without shadow of evidence; and all were to be put upon their trial without any specific charge! He hoped the noble Lord would withdraw his motion, and put it in a different shape. He did not wish to protect delinquency, but he could not consent to put the whole government on its trial without a specific charge alleged.

Mr. Canning said, he fairly avowed that, on grounds which had been already stated, no apprehension of consequences, be what they might, could possibly induce him to vote for this motion. It was impossible, in his opinion, to do so in consistency with the duty which he owed to the house and to the country, and therefore it had his decided opposition. But in giving that opposition he did not wish to oppose specific inquiry into specific abuses. The course was to specify the abuse; to prove the charge, and then to proceed to punishment. But was there no mischief in allowing the opinion to go abroad, that there was a consciousness on all hands of such a rottenness in the practices of government for several years past, as justified the entertaining of such a motion as this, as justified the appointment of a committee which, as it would be unlimited in its retrospective powers, must afford but a very distant prospect indeed of future advantage? Was the motion founded on the idea that all public men ought to be objects of suspicion? Was it conceived that the indulgence and emoluments could be the objects of liberal men in aspiring to office? Were the anxieties, the severe duties of such situations considered? Were these things to be compensated by money? If there were any persons who could entertain such ideas of liberal men who aspired to office, it would be his pride to be an object of their suspicions. This he would say, that if the noble lord and his abettors succeeded in driving all liberal men from the pursuit of office, the cast of

public

public men must be a degraded cast, into which no honest man could, in consistency with his own reputation, enroll himself. These were the sentiments which he took the liberty to submit to the House. He could not, therefore, let out this wide wasting power which was claimed by the noble lord, a power which could not be allowed to exist, without creating suspicions of the most disgraceful nature, which it would be impossible to do away.

The motion was negatived by 178 to 38.

The bill brought in by Mr. Perceval was read a second time on the 21st April, on which occasion Lord Folkstone observed, that various exceptions were made in the bill to which he objected; but amongst others there was one more important than those to which he had alluded, more important because the attention of the house and of the country had been more particularly called to it, in consequence of the report of the East-India Committee that seats in Parliament were trafficked for.

Mr. Bankes said, the committee on East-India offices had not expressed any opinion that sales of offices in the service of the Company should be exempted from the operation of the bill, but only that there was no necessity for any separate and specific legislative measure applicable to the Company. They had done so the more particularly on this account, because the East-India Company were already armed with greater powers than those which the country possessed, the former being permanent while the latter was subject to change, and dismissal from office always following the one, whilst it was by no means a necessary consequence on the other. He believed it would be a long time before any abuses were again heard of in the patronage of the East-India Company. The bill passed into a law on the 20th June 1809.

The jealousy of the House of Commons was subsequently manifested at the possible appropriation of any East-India patronage to the attainment of seats in Parliament, in the debate on a motion submitted by Lord A. Hamilton on the 25th April, as to a writership having been placed at the disposal of Lord Clancarty for that purpose.

In the whole course of the proceedings above adverted to, there

was not the shadow of an imputation cast on the Court of Directors, and although it was universally admitted that Mr. Thellusson's confidence had been abused, that gentleman, then one of the ex-Directors, lost his re-election to a seat in the court.

As Mr. Bankes had justly predicted in 1809, during a period of nearly twenty years, only two instances of abuse in the patronage of the Company have been heard of. The one, the receipt by Bascombe, the steward of Mr. Taggart, of the sum of £100, with the privity of his master, for a cadetship which Mr. Taggart obtained for a person of the name of Bennett, and for which Bascombe was tried and found guilty, and sentenced to pay a fine in May 1824. The other in the month of February 1827, when circumstances came to the knowledge of the Chairman, which induced a belief that a traffic either was pursued or pretended in East-India patronage: in consequence of which measures were taken which led to the discovery of facts placing the matter beyond a doubt. The Court of Directors, ignorant of those facts and regardless who might be concerned, empowered a Select Committee to follow up the investigation and to take the necessary measures for bringing the parties to justice. The result led to a prosecution in the Court of King's Bench against eight parties, one of them being a member of the Court of Directors. On the trial which took place on Thursday the 6th March, that member was acquitted: six of the other seven defendants pleaded guilty; and against the eighth, who went to trial, a verdict of guilty was returned by the jury.

It may be proper to add, that the whole of the proceedings were laid before the General Court of Proprietors, and the motion for their being printed was seconded by the member of the court who had been acquitted at the trial, and who entreated the proprietors to pass their judgment upon the papers.

On the 18th June the following motion was made in the General Court: "that the Court of Proprietors fully ap-
"prove of the measures adopted by the Court of Directors,
"in bringing the case of an abuse of patronage before a legal
"tribunal; and although Captain Prescott appears to have
"acted

"acted incautiously and imprudently, yet having been ac- "quitted by the verdict of a jury of the charge preferred "against him, and the proprietors being also satisfied that he "was not actuated by any corrupt motive, they are not dis- "posed to withdraw their confidence from him as a member "of the executive body."

After some discussion the consideration of the motion was deferred till the 2d July, on which day after a debate of some length, a ballot was demanded by sixteen members of the Court of Directors then present for the determination of the question; the said members abstaining from any expression of their sentiments on the question. The ballot took place on the 9th July, when there appeared to be:

For the question	408 votes.
Against the question	40
Majority for the question	368

The subject regarding East-India patronage, as connected with the introduction of the amended law of the 49th Geo. III. c. 126, has been thus fully detailed, in order to shew the sentiments entertained by Parliament as to the expediency of confining public inquiry to specific acts of abuse; and likewise the declared opinion of the Committee of the House of Commons in 1809, that throughout the evidence there was nothing to induce a reasonable suspicion that it was done with the privity or connivance of any member of the Court of Directors. In the conclusion of that Report the Committee observed, "it will depend upon the steps which may be taken "in consequence of these inquiries, whether such abuses shall "receive a permanent check or a virtual encouragement."

So far as the Court of Directors are concerned, they have manifested a decided determination to put the most effectual check to such disgraceful practices. The sentiments of Mr. Justice Bayley, on passing sentence upon the defendants who were brought up for judgment on the 23d June 1828, are as follows. His Lordship observed, "it was a prosecution insti- "tuted by the East-India Company, and it being contrary to "an act of Parliament now in force to negotiate upon the "subject of an appointment of this description, it appeared to "him

" him, at least, that the East-India Company did right in en-
" deavouring to sift the transaction to the bottom, and if
" possible to trace it to the fountain head; and they seem to
" have acted with an equal hand in that respect, having no
" regard either to high or low, for if criminality had attached
" to any one of their own body, they were desirous that it
" should meet the public eye and be subjected to reprobation."

LAW.

1809. 49 Geo. 3, c. 126. (1) Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present parliament assembled, and by the authority of the same, that from and after the passing of this act, the said act,* and all the provisions therein contained, shall extend and be construed to extend to Scotland and Ireland, and to all offices in the gift of the crown, or of any office appointed by the crown, and all commissions, civil, naval, or military, and to all places and employments, and to all deputations to any such offices, commissions, places, or employments in the respective departments or offices, or under the appointment or superintendence and control of the Lord High Treasurer or Commissioners of the Treasury, the Secretary of State, the Lords Commissioners for executing the office of Lord High Admiral, the Master-General and principal officers of his Majesty's Ordnance, the Commander-in-chief, the Secretary at War, the Paymaster-general of his Majesty's Forces, the Commissioners for the affairs of India, the Commissioners of the Excise, the Treasurer of the Navy, the Commissioners of the Navy, the Commissioners for Victualling, the Commissioners of Transports, the Commissary-general, the Storekeeper-general, and also the principal officers of any other public department or office of his Majesty's government in any part of the United Kingdom, or in any of his Majesty's dominions, colonies, or plantations, which now belong or may hereafter belong to his Majesty, *and also to all offices, commissions, places, and employments belonging to or under the appointment or control of the United Company of Merchants of England trading to the East-Indies*, in as full and ample a manner as if the provisions of the said act were repeated as to all such offices, commissions, places, and employments, and made part of this act; and the said act, and this act, and all the clauses and provisions therein respectively contained, shall be construed as one act, as if the same had been herein repeated and re-enacted.

(2) When rights of appointment forfeited to go to his Majesty.

(3)

* Provisions of 5th and 6th Edward VI. cap. 16.

(3) Persons buying or selling offices, or receiving or paying monies or rewards for offices, guilty of a misdemeanor. 1809. 49 Geo. 3, c. 126.

(4) Persons receiving or paying money for soliciting offices, and any negociations or pretended negociations relating thereto, guilty of a misdemeanour.

(5) Persons opening or advertising houses for transacting business relating to the sale of offices, guilty of a misdemeanor.

(6) Inflicting a penalty on persons advertising or publishing the names of brokers or agents.

(7) Act not to extend to purchase or sale of commissions in the army under regulations.

(8) Officers in the army giving more than the regulated prices, or paying agents for negociating, to forfeit their commissions and be cashiered. Their commissions to be sold, and half the produce to go to the informer.

PRIZE MONEY.

On the 10th June 1828 Mr. Astell, chairman of the East-India Company, obtained leave to bring in a bill for the appropriation of certain unclaimed shares of prize money acquired by soldiers or seamen in the service of the Company, since the passing of the act in June 1821. All sums of money so paid over belonging to soldiers are to be applied to Lord Clive's Fund; those belonging to seamen to Poplar Hospital; subject, nevertheless, to be refunded without interest to any person or persons entitled to the same, and establishing his, her, or their claim or claims to the satisfaction of the Court of Directors of the East-India Company, or of the Governor and Council of the settlement wherein the same shall have been paid over to the Company. The bill was passed into a law on the 15th July.

LAW.

Prize Money belonging to Soldiers to be paid over to the East-India Company.—Application.

1828. 15 July, 9 Geo. 4, cap. 50.

(1) Whereas by the act of 1st and 2d Geo. IV. cap. 61, provisions are made for regulating the appropriation of all such unclaimed prize-money, belonging to soldiers or seamen in the service of the United Company of Merchants of England trading to the East-Indies, as had accrued at the time of the passing of the said act, and as was then remaining in the hands of any prize agent or agents, or any other person or persons whomsoever: and whereas it is expedient that provision should be made for regulating the appropriation of all sums of money belonging to officers and soldiers employed in the service of the said United Company, and of all sums of money belonging to commanders, officers, and crews of ships hired by or belonging to the said United Company, which, since the passing of the said act, have come into the hands of any prize agent or agents, or any other person or persons whomsoever, or which, since the passing of the said act, have severally arisen from or have become distributable, or shall hereafter arise from or become distributable, in respect

respect of any capture made, or other warlike service already performed, and which shall hereafter come to the hands of prize agents and other persons; and that all unclaimed shares of such prize money should be appropriated as hereinafter is provided; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that all and every shares and share of booty, prize money, head money, bounty money, and salvage money, and of money arisen or to arise from or distributable, or hereafter to become distributable, in respect of any capture made, or other warlike service whatsoever already performed, belonging or to belong to officers or soldiers, or to any officer or soldier in or having been in the service of the said Company, in whatever service the same may have accrued, which, since the passing of the said recited act, has come into and is now remaining in the hands or shall hereafter come into the hands of any prize agent or agents, or any other person or persons whomsoever, shall be paid over to the said United Company in London, or at any of their settlements abroad, according to the residence of the party or parties paying the same, or as the Court of Directors of the said United Company shall direct; and all sums of money, when so paid over, shall be applied to the fund established by the Right Honourable Robert late Lord Clive, for the relief of persons and the widows of persons in the military service of the said United Company, commonly called "Lord Clive's Fund," for the purpose and objects of the said fund, according to the rules and regulations for the time being thereof; subject nevertheless to be refunded, without interest, to any person or persons entitled to the same, and establishing his, her, or their claim or claims thereto to the satisfaction of the Court of Directors of the said Company, or of the Governor and Council of the settlement where the same shall have been paid over to the said Company.

1828. 15 July, 9 Geo. 4, cap. 50.

Prize money belonging to seamen to be paid over to the East-India Company.—Application.

(2) And be it further enacted, that all and every shares and share of booty, prize money, head money, bounty money, and salvage money, and of money arisen or to arise from, or distributable, or hereafter to become distributable, in respect of any capture made, or other warlike service whatsoever already performed, belonging or to belong to commanders, officers, sailors, or other persons, or to any commander, officer, sailor, or other person, serving or who may have served on board of any ship or vessel in the service of the said Company, whether hired or belonging to the said Company, in whatsoever service the same may have accrued, which, since the passing of the said recited act, has come into, and is now remaining in the hands, or shall hereafter come into the hands of any prize agent or agents, or any other person or persons whomsoever, shall be paid over to the said United Company, in London, or at any of their

1828. 15 July, 9 Geo. 4, cap. 50.

their settlements abroad, according to the residence of the party or parties paying the same, or as the Court of Directors of the said United Company shall direct; and all sums of money, when so paid over, shall be applied to the hospital fund established for the relief of persons and widows of persons belonging to ships and vessels in the service of the said United Company, commonly called "Poplar Hospital," for the purposes and objects of the said last-mentioned fund, according to the rules and regulations for the time being thereof; subject nevertheless to be refunded, without interest, to any person or persons entitled to the same, and establishing his, her, or their claim or claims thereto to the satisfaction of the Court of Directors of the said Company, or of the Governor and Council of the settlement where the same shall have been paid over to the said Company.

Company have no right to Prize Money of any Soldier or Sailor in his Majesty's Forces or Ships.

(3) Provided always, and be it further enacted, that nothing in this act contained shall extend or be construed to extend to give to the said United Company, or any person or persons on the behalf of the said Company, any right, title, or interest in or to any booty, prize money, head money, bounty money, salvage money, or to any forfeited or unclaimed share or shares thereof, which now is or are or hereafter shall be due or payable to any officer, soldier, sailor, or other person, on account of services in his Majesty's army, royal artillery, black, provincial, or other troops in the pay of his Majesty, or on board of any of his Majesty's ships or vessels, or in any other service, to the forfeited and unclaimed shares of which the Royal Hospital for seamen at Greenwich, or the Royal Hospital for soldiers at Chelsea, the respective treasurers thereof, are entitled or shall become entitled by the laws now in force, nor to give any powers or authorities to the said United Company over such last-mentioned booty, prize money, head money, bounty money, or salvage money, or in respect thereof.

Times within which payments are to be made.

(4) Provided also, and be it further enacted, that all money now remaining in the hands of any prize agent or agents, or any other person or persons whomsoever, and which is hereby directed to be paid over to the said United Company, and which shall be to be paid over in London, shall be paid within six calendar months next after the passing of this act; and all such money which shall be to be paid over at any of the settlements abroad of the said United Company, shall be paid within six calendar months next after the Governments of the said settlements respectively shall have caused the provisions of this act in that respect to be notified in the way in which general orders for the army are usually published at the said settlements respectively; and that all money which shall hereafter come into the hands of any prize agent or prize

1828. 15 July, 9 Geo. 4, cap. 50.

prize agents, or any other person or persons whomsover, and which is hereby directed to be paid over to the said United Company, and which shall be to be paid over in London, shall be paid within six calendar months next after the receipt thereof by such prize agent or agents, or other person or persons; and that all such money which shall be to be paid over at any of the settlements abroad of the said United Company, and which shall be in the hands of such prize agent or agents, or other person or persons, at the time when the governments at the said settlements respectively shall have caused the provisions of this act in that respect to be notified in the way in which general orders for the army are usually published at the said settlements respectively, shall be paid over within six calendar months next after such notification; and that all such money which shall, after such notification, come to the hands of any prize agent or agents, or other person or persons whomsoever, shall be paid within six calendar months next after the receipt thereof by such prize agent or agents, or other person or persons.

Agents and others to deliver accounts upon oath.

(5) And be it further enacted, that all and every person and persons whomsoever, who are required by this Act to pay over any money to the said United Company, shall and they are hereby required, without further requisition or notice, to deliver or cause to be delivered to the secretary of the said United Company in London, or to the several secretaries of the respective governments at the settlements abroad, where such money shall be to be paid over to the said United Company respectively, a true and correct account of all the monies remaining in his or their hands, and so to be paid over, with a list or lists of the names, rank, regiment, or other sufficient description of the persons entitled thereto, which accounts and lists shall be verified by the affidavit on oath of the party or one of the parties required to deliver the same, such oath to be taken before any magistrate or other person authorized by any court of law or equity to administer oaths, and which oath such magistrate or other person is hereby required to administer accordingly.

Court of Directors and Governments abroad empowered to call for accounts on oath.—Not to require accounts which have been legally closed.

(6) And be it further enacted, that upon the reasonable request and notice of the Court of Directors of the said United Company, and the governments of the settlements of the said Company abroad respectively, all and every person and persons whomsoever, who are required by this Act to pay over any money to the said United Company, shall make out and deliver, or cause to be made out and delivered, to the secretaries of the said Court of Directors and of the said governments respectively requiring the same, full, true, and

1828. 15 July, 9 Geo. 4, cap. 50.

particular accounts in writing of all the receipts, payments, dealings, and transactions of such person and persons; and if they shall be executors, administrators, agents, or representatives, then full, true, and particular accounts in writing of their several testators, intestates, and principals, any way relating to any booty, prize money, or other matter in respect of which such money so to be paid over shall have arisen, with the dates of all and every such receipts, payments, dealings, and transactions, and true and correct lists and descriptions of all grants, deeds, writings, books of account, letters, and papers whatsoever in the custody or power, or which ever shall have been in the custody or power of the persons respectively required to make out and deliver the same, or of their respective testators, intestates, or principals, any way relating to any such booty, prize money, or other matter; which accounts and lists shall be verified by affidavit on oath, to the best of the knowledge, information, and belief of the person or persons required to make out and deliver the same, such oath to be taken before any magistrate or other person authorized by any court of law or equity to administer oaths, and which oath such magistrate or other person is hereby required to administer accordingly; and all the grants, deeds, writings, books of account, letters, and papers relating to the matters aforesaid, and in the custody or power of the person or persons required to pay over any such money as aforesaid, shall be produced and shewn at all reasonable times, at the place or places where such grants, deeds, writings, books of account, letters, and papers shall be usually kept and deposited, or in some other reasonable and convenient manner, to such person and persons as the said Court of Directors, or the said governments respectively, shall direct or authorize to inspect the same; and such person and persons shall have full liberty to inspect and take, and cause to be taken, such copies, extracts, and abstracts thereof as he or they, or the said Court of Directors, or the said governments respectively, shall see fit: provided always, that this act, or any thing herein contained, or the production, inspection, or examination of the accounts, books, and papers before-mentioned, shall not in any way be deemed or construed to extend to open any account which shall have been conclusively closed and settled by the order, judgment, sentence, or decree of any court of competent jurisdiction, or in any other manner by which the parties interested therein would have been concluded if this act had not passed, nor to prevent any court of competent jurisdiction to order any such account to be opened, or to give liberty for surcharge or falsification thereof, upon just cause and ground shewn for that purpose.

Persons taking false oaths guilty of perjury. Persons suborning liable to the penalties of perjury.

(7) And be it further enacted, that if any person or persons whosoever shall be convicted of making a false oath touching any of the matters

matters directed or required by this Act to be testified on oath, such person or persons so convicted as aforesaid shall be deemed guilty of perjury, and shall be liable to the pains and penalties to which persons guilty of perjury are liable by any law in force in that part of the United Kingdom called England; and if any person shall corruptly procure or suborn any other person or persons to swear falsely in any such oath, such person, being duly convicted of such procuring and suborning, shall for every such offence incur and suffer such penalties, forfeitures, pains, and disabilites, as persons convicted of perjury are respectively liable unto by any law in force in the said part of the said United Kingdom called England.

1828. 15 July, 9 Geo. 4, cap. 50.

Power of recovery of the Monies directed to be paid over.

(8) And be it further enacted, that the said United Company shall have and be entitled to the same rights, powers, remedies, and methods of suit at law or in equity, or by any admiralty process, to be commenced and prosecuted in the name of the said United Company, in the several courts of justice in the United Kingdom, and in the East-Indies, and elsewhere soever, for discovery and recovery of the monies hereby directed to be paid over to the said Company, as the original owners thereof now have, or are entitled to use or exercise; and all courts of law and equity, and of Admiralty jurisdiction, in the United Kingdom, and in the East-Indies, shall have and exercise the same jurisdiction, powers, and authorities for compelling all and every person and persons to account for and pay over the monies hereby directed to be paid over to the said United Company, as any court of law or equity, or of Admiralty jurisdiction, may now lawfully exercise, with respect to any unclaimed balances payable to the treasurers of Greenwich Hospital and Chelsea Hospital respectively, by virtue of any act or acts of Parliament, or any law, usage, or custom whatsoever; and that it shall and may be lawful to and for the Court of Directors of the said United Company, and the several governments of the settlements abroad of the said United Company, to exercise the same or the like powers and authorities, for the recovery of the monies hereby directed to be paid over to the said United Company, as may now be exercised by virtue of any act or acts of Parliament now in force relating to prize money by the treasurers of Greenwich Hospital and Chelsea Hospital respectively, so far as such powers and authorities extend to the recovery by them, and the discovery of unclaimed shares of prize money due and belonging to any officers, soldiers, or seamen in the service of his Majesty, and shall be applicable to the objects of this act, and all and every agent or agents shall be subject to the like penalties for neglect or default in not accounting for or paying over the share or shares, which by the said recited act or by this act is or are made payable to the said United Company,

Courts of justice invested with the same powers as they now have with respect to Greenwich and Chelsea Hospitals, and Court of Directors, &c. to exercise similar authority to the treasurers.

1828. 15 July, 9 Geo. 4, cap. 50. Company, as agents are made liable to by any act or acts now in force, for not accounting for or for not paying over shares and balances to the treasurers of Greenwich and Chelsea hospitals respectively.

Not to affect the interests of Chelsea or Greenwich Hospitals.

(9) And be it further enacted, that nothing in this act contained shall extend or be construed to extend to affect the Royal Hospital for soldiers at Chelsea, nor the Royal Hospital for seamen at Greenwich; nor to take away, repeal, diminish, or interfere with any claim, right, or interest which by virtue of any law or laws now in force may have been given, or are now existing, or may hereafter by virtue of the said acts become vested in the said Royal Hospitals, or in the treasurers thereof, on any unclaimed and forfeited shares of prize money, or for the recovery thereof, for the benefit of the said institutions, or for the benefit of the person or persons entitled to any unclaimed and forfeited shares of prize money; but the same shall continue and remain in the said Commissioners and in the said treasurers, as if this act had not been made.

Acquitting persons paying over Prize Money.

(10) And be it further enacted, that all and every person and persons who shall pay over to the said Company, or to any other person or persons by their order or for their use, any sum or sums of money required to be paid under the provisions of this act, shall, from and after such payment, be absolutely acquitted and discharged from all claims and demands whatsoever of all and every other person and persons to the same monies which shall be so paid over.

Expenses of this act to be defrayed out of the monies recovered.

(11) And be it further enacted, that all expenses incurred or to be incurred in executing this act, and the sums paid in remunerating the officers or persons employed on behalf of the said United Company, for their care, pains, and trouble in performing the regulations and directions thereof, shall, so far as the same relate to those officers or persons, be subject to the discretion of the Court of Directors for managing the affairs of the said Company, and shall be paid out of the principal monies to be recovered and discovered as aforesaid on account of such shares respectively: provided nevertheless, that no person employed by the said United Company in executing the regulations of this act, shall act as an agent for prizes, or be concerned directly or indirectly in the business thereof, under the penalty of five hundred pounds.

Persons employed by the Company not to act as agents.

Not to prevent persons trying rights to prize money.

(12) Provided also, and be it further enacted, that nothing in this act contained shall extend or be construed to extend to prevent any person or persons from resorting to any remedy at law or in equity against the said Company, for the recovery of principal, without interest, of any money to which he, she, or they may be entitled, and which shall have been paid to the said

said United Company, or which shall have been carried over by the said Company to the credit of either of the funds herein-before mentioned, under the directions of this act; provided such person or persons shall have preferred his or their claim thereto to the said Court of Directors, if such money shall have been paid over to the said Company in England, or shall have been carried over from their funds at home, or to the Governor in Council of the presidency where the same shall have been paid or carried over, if paid over to the said Company, or carried over from their funds in India, within six years after the same shall have been so paid or carried over; any thing herein contained to the contrary notwithstanding.

1828. 15 July, 9 Geo. 4, cap. 50.

REAL ESTATE LIABLE AS ASSETS.

On the 23d June 1827, Mr. Fergusson brought under the consideration of the House of Commons, the state of the law in India respecting landed property in possession of British subjects there, and other matters within the jurisdiction of his Majesty's courts established within the territories of the East-India Company. As the law then stood, it appeared doubtful whether and to what extent the real estates of British subjects and others (not being Mahometans or Gentoos) situate within the limits before-mentioned, were liable as assets in the hands of executors and administrators to the payment of the debts of their deceased owners.

A motion was made for the appointment of a Select Committee to inquire into and report to the House upon the question. After some observations from Mr. Williams Wynn, the motion was withdrawn.

On the 25th March last Mr. Fergusson presented a petition from the British, native, and other inhabitants of Calcutta, in which the petitioners begged the attention of the House to the imperfect and unsettled state of the law on the subject. The petitioners likewise pointed out the want of a law regarding insolvent debtors in India. After some observations by several members, Mr. Williams Wynn stated, that he had paid attention to the subject of the law as to insolvent debtors shortly after his accession to the office of President of the Board of Commissioners, and expressed his readiness to afford every assistance in promoting the object regarding the law of real property in India.

The petition was then brought up and ordered to be printed, and leave was given to bring in a bill to explain and amend the law as to real property in India. The Bill was brought in and read the first time on the 16th May, and passed on Friday, the 13th June, after a clause had been inserted and agreed to, at the

instance

instance of Mr. Fergusson, declaring that nothing contained in the act was to have the effect of altering in any manner the character of property in India. The bill passed the House of Lords on the 14th, and received the royal assent on the 27th June.

LAW.

1828. 27 June, 9 Geo. 4 c. 33.

(1) Whereas some doubts have arisen whether, and to what extent, the real estates of British subjects and others (not being Mahomedans or Gentoos), situate within or being under the jurisdiction of his Majesty's supreme courts of judicature in India, are liable, as assets in the hands of executors and administrators, to the payment of the debts of their deceased owners, and whereas it is expedient that such doubts should be removed; be it therefore, and it is hereby declared and enacted, that whenever any British subject shall die seised of or entitled to any real estate in houses, lands, or hereditaments, situate within or being under the general civil jurisdiction of his Majesty's supreme courts of judicature at Fort William in Bengal, Fort St. George, and Bombay respectively, or whenever any person (not being a Mahomedan or Gentoo) shall die seised of or entitled to any such real estate, situate within the local limits of the civil jurisdiction of the same courts respectively, such real estate of such British subject or other person as aforesaid (not being a Mahomedan or Gentoo), is and shall be deemed assets, in the hands of his or her executor or administrator, for the payment of his or her debts, whether by specialty or simple contract, in the ordinary course of administration.

Whenever any British subjects, or persons not being Mahomedans or Gentoos, shall die, entitled to any real estate in India, such estate shall be deemed assets.

(2) And it is further declared and enacted, that it is and shall be lawful for such executor or administrator of such British subject or other person as aforesaid (not being a Mahomedan or Gentoo), to sell and dispose of such real estate for the payment of such debts as aforesaid, and to convey and assure the same estate to a purchaser, in as full and effectual a manner in law as the testator or intestate of such executor or administrator could or might have done in his life-time.

Executors may sell such real estates for the payment of debts.

(3) And it is further declared and enacted, that in any suit or action to be commenced and prosecuted in any of the said courts respectively, against such executor or administrator as aforesaid, for the recovery of any debt or demand due and owing by such testator or intestate in his life-time and at the time of his death, such executor or administrator shall and may be charged with the full amount in value of such real estate as aforesaid, not exceeding the actual net proceeds

In any action for debt, the executor may be charged with the full amount of such real estate.

1828. 27 June, 9 Geo. 4, c. 33.

proceeds of such estate when sold by the sheriff, as assets in the hands of such executor or administrator to be administered.

In suits against executors, courts may order writs of sequestration.

(4) And it is further declared and enacted, that in any such suit or action against such executor or administrator as aforesaid, it is and shall be lawful for the said courts respectively to award and issue such writs of sequestration and execution against such houses, lands, and real effects of such testator or intestate, in the hands of such executor or administrator as aforesaid, and to cause the same to be seized, sequestered, and sold, or possession thereof delivered under such writs respectively, in the same manner as such courts could and might have done in the life-time of such testator or intestate as aforesaid.

Conveyances and assurances of such estates shall be deemed good.

(5) And it is further declared and enacted, that all conveyances and assurances of such real estates of such British subjects and other persons so dying seised or entitled as aforesaid (not being Mahomedans or Gentoos), situate within or being under the general or local jurisdiction of such courts respectively as aforesaid, heretofore made and executed by executors and administrators of such deceased British subjects and other persons as aforesaid, are hereby confirmed, and shall be deemed, held, and taken to be of the same force, validity, and effect in law, as if the same had been made and executed by such deceased persons in their life-time.

This act not to alter the legal quality or tenure of any estates.

(6) Provided nevertheless, and it is hereby declared and enacted, that neither this act, nor any thing herein contained, shall be construed to operate as or have the effect of changing or altering the legal quality, nature, or tenure of any lands, houses, estates, rights, interests, or any other subject of property whatsoever, or of making the same or any of them to be of the nature of real property, if by law, before the passing of this act, the same or any of them were personal property; but that the law in that respect shall be and continue the same as if this act had not passed.

WRITERS.

In page 168 of the Analysis, it was intimated that the probable demand of the civil service in India would exceed the means of supply, and consequently lead to some relaxation in the then existing law, which required that all persons, previously to their being appointed writers, should have resided four terms at college. In December 1825 the expediency of repealing the 45th section of the Act of the 53d Geo. III., cap. 155, was submitted by the Chairman of the Court of Directors to Mr. Williams Wynn, in consequence of which, Mr. Wynn, on the 26th March 1826, obtained leave to bring in a bill to suspend so much of the act of the 53d Geo. III. cap. 155, as related to the appointment of writers. After adverting to some of the causes which had occasioned a deficiency in the number of qualified persons, he observed, that the measure contemplated was not intended to imply any distrust of the system pursued at the East-India College; he believed that system had fully answered its purpose. Had the question related to the new constitution of the College, he should decidedly prefer its being assimilated to our existing universities, as he conceived it was much less advantageous to persons to be educated in classes than to be mixed together. At the same time, he considered it highly creditable to the College that in the short space of two years the students acquired so much.

Mr. Hume remarked, that the business of the College was better conducted now than formerly, still he felt called upon to express his decided conviction, that it never would answer the purpose for which it was originally intended.

Sir Thomas Baring stated, that a more perfect knowledge could be acquired of Hindoostannee by a six months' residence in India, than by two years' study in this country. He thought, upon the whole, that if individuals were allowed to receive their

their education at such places as their parents or friends thought best, the Company would have the best guarantee that their servants would be educated and effective men. He hoped, therefore, that the alteration proposed would be made permanent.

Mr. Charles Grant trusted it would be made only a temporary measure. Adverting to the opposition which was offered to the College; and alluding to the irregularities stated to have occurred, he observed that they were not greater in number or degree than were to be met with in similar establishments. Since its foundation, a marked improvement had taken place in the conduct and character of the Company's servants in India. In 1810 Lord Minto spoke highly of its usefulness. A few years after Colonel Roebuck gave testimony of a similar character. The Marquess of Hastings had expressed, in the most unqualified terms, his approbation of the College; and his right hon. friend, who introduced the present measure, had stated that every communication he received from India more strongly convinced him of its usefulness. There appeared at first sight something plausible in the opinion, that a common education would be sufficient for every purpose: but this test could apply to nothing but literature; it could have no reference to scholastic discipline, to moral character, or propriety of conduct. When individuals spoke of the proficiency which a young man ought to obtain before he proceeded to India, he took it that they adverted to the lowest degree of proficiency to that which might be fixed as a minimum. Now it was quite evident that that minimum would be both the minimum and maximum. The present system, he conceived, was well calculated for sending out efficient servants to India; but if a better could be devised, be the expense of time or money what it might, he would certainly support it.

Dr. Phillimore believed that the College had fully completed the objects for which it was established, by furnishing India with a supply of well-educated young men. Never did any functionaries acquire more honour and credit than the young men sent from the College.

On the 28th of April, on the order of the day for the committal of the bill, Mr. Denman observed, that it was

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to remedy the evil of incompetent persons being sent out to India that the College was established, and in his opinion the experiment had fully answered. The requiring a certificate that parties had been properly educated had, in his opinion, a most beneficial effect in preventing incompetent persons from being sent out. He could have wished that the certificate had been incorporated in the bill itself.

Mr. Trant said, that all his experience contradicted the assertion that, previous to the establishment of the College, the persons sent out to India were uneducated. In his opinion, the civil service had been very little improved by the College, which he conceived had totally failed to answer the purpose for which it had been founded.

Mr. Secretary Canning said, that his concurrence in the bill was not founded in any apprehension that the temporary suspension of the qualification from the College would lead to the destruction of that institution. On the contrary, although in former times great men had appeared in India, yet the country had a right to expect that there should be some competent security for the cultivation and education to be possessed by those who were sent out to India. The nation had a deep interest in the question, and had a strict right to be assured that those who were destined for India should have some preparatory education previous to their departure. At the same time, if there could be a guarantee for the general education of those appointed to offices in India, he might hesitate between the present specific and a more general place of instruction; for he believed that, for all the purposes which men could be called upon to execute, the English gentleman's education was decidedly the best. But there were no means of obtaining this desirable object except by the test of examination: of these there were partialities, and a thousand other impediments to operate against the purity of such a test. With respect to the College, it appeared to him that, under circumstances of peculiar difficulty, it had been conducted with eminent credit to those to whom its management was intrusted, and with great utility to the public service. He was sorry that any cause had occurred for the temporary suspension of its powers, but in giving his support to the present measure, he could only give

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his pledge of honour that he had no such intention as to get rid of it altogether; and if there should be any change in its future management, it would only be the kind of change to which he had alluded, that of introducing a general system of education instead of the specific instruction, which was at present pursued.

Col. Baillie consented to the bill because he considered it expedient to supply the deficiencies of the public service. The regulations of the bill were not intended in the slightest degree to injure the College, but simply to provide a sufficient number of persons possessing the qualifications which were requisite for such institutions.

Mr. Williams Wynn, after stating the reasons why the present plan was the best that could be adopted, conceived that much advantage might be derived from the competition which it would create among the promoters of the different systems of education for young men proceeding to India. He could not see any reason why a young man, who had gone through the usual routine of a public school, and had afterwards applied himself at the universities or elsewhere to the study of the language of India, should not be equally well qualified for service in India with a young man educated at the College. He could not forget that one of the Company's most able servants, Warren Hastings, had been educated at Westminster school, in the same form with Lloyd and Churchill, and Cowper, and that he had retained the love of literature to the last. He proposed to pass the bill only for three years, in order that it might be then reconsidered at the end of that time, when the House had obtained further experience on the subject.

The act of the 7th Geo. IV, cap. 56, was accordingly passed, by which the provision before-mentioned was suspended, and persons are permitted to be sent out as writers on producing testimonials and passing an examination under certain rules and regulations framed by the Court subject to approval by the Board of Commissioners for the Affairs of India. No person can be appointed a writer whose age is less than eighteen, unless in the case of any *student* who shall have passed four terms at the East-India College prior to his having

attained

attained that age. The act continues in force for three years from the 26th May 1826, consequently its provisions cease on the 26th May 1829 unless the act be renewed. As the regulations were not framed when the act was printed, the Act and Regulations are now given at length.

LAW.

1826. 7 Geo. 4, 26th May, c. 56.

(1) And whereas there is not a sufficient number of persons qualified, according to the provisions of the said Act, to be appointed writers to fill the vacancies which exist, and which are likely to occur in the civil establishments of the said presidencies in the East-Indies: be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that at any time within three years from the passing of this act, it shall and may be lawful for the Court of Directors of the said United Company to nominate and appoint, and to send to the presidencies of Fort William, Fort Saint George, or Bombay, in the capacity of a writer, any person who shall produce such testimonials of his character and conduct, and pass such an examination as, by rules and regulations to be framed and established as hereinafter is mentioned, shall be required.

Persons may be sent to India as writers, on producing testimonials and passing examination.

Directors may, with approbation of Board of Control, establish regulations respecting qualifications.

(2) And be it further enacted, that the said Court of Directors shall, and they are hereby required, with all convenient speed, by and with the consent and approbation of the Board of Commissioners for the Affairs of India, to frame and establish proper rules and regulations respecting the due and necessary qualifications of writers; and that it shall and may be lawful for the said Court of Directors, with the consent and approbation of the said Board of Commissioners, to alter and vary such rules and regulations from time to time as circumstances may appear to require; and that the rules and regulations so altered and varied shall be of the same force and effect as the original rules and regulations.

REGULATIONS *for Admission to the Civil Service of the East-India Company of Persons who have not resided at the East-India College; framed by the Court of Directors, and approved by the Board of Commissioners for the Affairs of India, in conformity with the provisions of the Act 7th Geo. IV. cap. 56.*

That persons nominated writers, although they may not have been admitted at the East-India College, shall be deemed eligible for examination upon the production of the following certificates:

First. That the age is not less than eighteen nor more than twenty-two.

Second. Testimonials, upon honour, of good moral conduct, under the hand of the principal or superior authority of the college or public institution for instruction in which the nominee may have been educated; or if the nominee has not been educated in a public institution, then under the hand of the person or persons by whom the nominee may have been educated, for a period of not less than two years immediately preceding the time of presentation. The said testimonials to be such as shall be deemed satisfactory by the Court of Directors.

Third. A certificate from the Board of Examiners, to be appointed in manner hereinafter directed, shewing that the nominee has been examined and found qualified, agreeably to the test described in the paper hereunto annexed.

That a Board of four Examiners be appointed, two from the University of Oxford, and two from that of Cambridge, for the departments of Classics, Mathematics, and History.*

That Dr. Wilkins be appointed to examine such of the candidates as may present themselves for examination in the Oriental languages. That the examination in those languages shall for the present be optional, and confined to such of the nominees as shall voluntarily present themselves to undergo it.

That the Examiners meet half-yearly in London, at Lady-day and at Michaelmas, for the purpose of examining nominees.

Rank.—That all Writers who shall be found qualified under the foregoing regulations shall rank immediately after those who shall have proceeded from the East-India College at the preceding half-yearly examination, and that they shall be classed in such order as shall be determined by the Board of Examiners.

That the rank which may be assigned by the London Board of Examiners to persons appointed writers without having resided at the College, shall take effect only in the event of the writers proceeding to India within three months after they are so ranked; and that should any

* Board of Examiners for the year 1828:

Rev. Jas. Endell Tyler, B.D.	Oxford University.	Thos. Thorpe, Esq., M.A.	Cambridge.
—— Chas. A. Ogilvie, M.A.		Rev. Alfred Ollivant, M.A.	

any writer delay so to proceed, he shall only take rank among the writers classed at the last examination previous to his departure for India, whether that examination may have been by the London Board of Examiners or by the College Council, and shall be placed at the end of that class in which rank was originally assigned to him.

Plan for the Examination of Candidates.

The candidates will be examined in the Greek Testament, and in some of the works of the following Greek authors, *viz.* Homer, Herodotus, Demosthenes, or in the Greek Plays; also in some of the works of the following Latin authors, *viz.* Livy, Cicero, Tacitus, and Juvenal, which part of the examination will include collateral reading in Ancient History, Geography, and Philosophy.

They will also be examined in Mathematics (including the four first and sixth Books of Euclid), Algebra, Plane Trigonometry, and Mechanics.

In Modern History, principally taken from "Russell's Modern Europe;" and in "Paley's Evidences of Christianity."

Test.—No candidate will be deemed qualified unless he be found to possess a competent knowledge of the Greek Testament, and of some portion of the works of at least two of the above-mentioned Latin authors (the particular works to be selected by the candidates, subject however to the previous approval of the examiner), and also of the principles of Grammar, the common Rules of Arithmetic, Vulgar and Decimal Fractions, the four first Books of Euclid, or the Elements of Algebra, including Simple Equations; it being understood that superior attainments in either of the departments of literature or science comprised in the foregoing plan of examination shall, at the discretion of the examiners, be considered to compensate for some deficiency in other of those departments.

These are the *minima* of qualification. The candidates so qualified will be classed in the order in which they reach higher degrees of attainment, and such classification will determine the relative rank in the service of the candidates when appointed Writers.

Notice.—Dr. Wilkins will attend at each examination, for the purpose of examining such of the candidates as may have previously signified their intention to present themselves to undergo an examination in the Oriental languages. A knowledge of two of those languages (of which the Hindoostanee or the Persian must be one) is an indispensable qualification in India, to enable a civil servant of the Company to fill official situations there: and although an examination in those languages will not at present be positively required in England for nominees not educated at the East-India College, yet such persons will essentially promote their own interests, by commencing in England the study of those languages, so as to pass an examination in this country, and prosecuting it during the voyage, and thereby qualifying

qualifying themselves to pass in India the test required of all Writers previously to their being reported qualified for the public service.

Interpretation of the Test.—Every candidate is expected to be prepared for examination in the four Gospels in Greek, and two at least of the following portions of the Latin authors enumerated in the test. Three Books of Livy, eight Satires of Juvenal. In Cicero, an equivalent in quantity equal to the whole of the Offices. In Tacitus, an equivalent in quantity to the two first books of the Annals.

The examiners expect that each candidate should be prepared to answer questions respecting the Sacred History, and the Geography and Chronology connected with the events of the New Testament.

APPENDIX.

PRESIDENT OF THE BOARD OF COMMISSIONERS FOR THE AFFAIRS OF INDIA.

Date of Appointment.	
14th Feb. 1828..	Viscount Melville.

CHAIRMAN AND DEPUTY CHAIRMAN.

1827:	*Chairman*....	Hon. Hugh Lindsay, M.P.
	Deputy......	James Pattison, Esq.
1828:	*Chairman*....	William Astell, Esq., M.P.
	Deputy......	John Loch, Esq.

GOVERNOR GENERAL.

Appointed.	
18 July 1827..	The Right Honourable Lord William Cavendish Bentinck, G.C.B.

GOVERNORS.

Madras.

Appointed.		Took his Seat.
	Henry Sullivan Grœme, Esq.	10 July 1827.

(Took charge of the Government on the death of Sir Thomas Munro.)

17 Jan. 1827..	Right Hon. Stephen R. Lushington	18 Oct. 1827.

Bombay.

17 Jan. 1827..	Major-Gen. Sir John Malcolm, G.C.B.	1 Nov. 1827.

MEMBERS OF COUNCIL.

Bengal.

Appointed.		Took his Seat.
15 Feb. 1825..	General Lord Combermere, Commander-in-chief	7 Oct. 1825.
15 Feb. 1825 [Provisional.] 11 Apr. 1826	William Butterworth Bayley, Esq..	11 Nov. 1825.
11 Apr. 1826 [Provisional.] 9 July 1828	Sir Charles T. Metcalfe, Bart.	24 Aug. 1827.
9 July 1828..	William Blunt, Esq., Provisional Counsellor.	

Madras.

11 May 1825..	Lieut. General Sir G. T. Walker, Commander-in-chief	3 Mar. 1826.
12 July 1820 [Provisional.] 17 Dec. 1823	Henry Sullivan Grœme, Esq.......	10 June 1823.
23 Dec. 1823..	John Hugh Donnel Ogilvie, Esq...	13 July 1824.
4 July 1827..	James Taylor, Esq., Provisional Counsellor.	

Bombay.

20 July 1825..	Lieut. General Sir Thomas Bradford, Commander-in-chief	3 May 1826.
22 Jan. 1823..	Richard Thomas Goodwin, Esq. ..	8 July 1823.
4 July 1827 [Provisional.] 30 Jan. 1828	James Joseph Sparrow, Esq.	
30 Jan. 1828..	John Romer, Esq., Provisional Counsellor.	

JUDGES.

Bengal.

2 Feb. 1825.. Sir Charles Grey, Knt., Chief Justice.
7 Mar. 1825.. Sir John Franks, Knt., Puisne Judge.
29 Sept. 1826.. Sir Edward Ryan, Knt. do.

Madras.

28 Jan. 1825.. Sir Ralph Palmer, Knt., Chief Justice.
do Sir Robert Buckley Comyn, Knt., Puisne Judge.
7 Mar. 1825.. Sir George William Ricketts, Knt. do.

Bombay.

8 Dec. 1823.. Sir Edward West, Knt., Chief Justice.
do. Sir Harcourt Chambers, Knt., Puisne Judge.
28 Aug. 1827.. Sir John Peter Grant, Knt. do.

Prince of Wales' Island, Singapore and Malacca.

3 Oct. 1825.. Sir John Thomas Claridge, Knt., Recorder.

BISHOP OF CALCUTTA.

26 Apr. 1827.. The Rev. John Thomas James, D.D.

COMMANDER-IN-CHIEF IN INDIA.

9 Feb. 1825.. General Lord Combermere, G.C.B.

COMMANDER-IN-CHIEF AT MADRAS.

11 May 1825.. Lieut. General Sir Geo. T. Walker, G.C.B.

COMMANDER-IN-CHIEF AT BOMBAY.

20 July 1825.. Lieut. General Sir Thomas Bradford, K.C.B.

VOTES OF THANKS

BY THE

EAST-INDIA COMPANY.

WAR AGAINST AVA.

LORD AMHERST, SIR THOMAS MUNRO, SIR ARCHIBALD CAMPBELL, OFFICERS AND MEN, SIR JAMES BRISBANE, and the OFFICERS and CREW of HIS MAJESTY'S SHIPS.

At a GENERAL COURT held on Wednesday the 13th December 1826.

Resolved, That the thanks of this Court be given to the Right Honourable Earl Amherst, Governor-General, for his active, strenuous, and persevering exertions in conducting to a successful issue the late war with the Government of Ava, which was provoked by the unjust aggression of the enemy, prosecuted amid circumstances of very unusual difficulty, and terminated so as to uphold the character of the Company's Government, to maintain the British ascendant in India, and to impress the bordering states with just notions of the national power and resources.

Resolved unanimously, That the thanks of this Court be given to Major-General Sir Thomas Munro, Bart., K.C.B., for the alacrity, zeal, perseverance and forecast, which he so signally manifested throughout the whole course of the late war, in contributing all the available military and territorial resources of the Madras Government towards bringing it to a successful termination.

Resolved unanimously, That the thanks of this Court be given to Major-General Sir Archibald Campbell, K.C.B., for the skill, gallantry, and perseverance so conspicuously displayed by him in conducting the operations of the forces throughout the late arduous war, and which enabled him to surmount difficulties of no ordinary character, as well as for his judgment and forbearance in availing himself of

every opening for negociations which finally led to the happy termination of hostilities.

Resolved unanimously, That the thanks of this Court be given to the Brigadiers-General, Brigadiers, Field and other Officers of his Majesty's and the Company's Forces, both European and Native, for their gallant and meritorious conduct in the field throughout the late operations against the state of Ava.

Resolved unanimously, That this Court acknowledge and highly applaud the zeal, discipline, and bravery, together with the patient endurance of fatigue, privation, and sickness, displayed by the Non-commissioned Officers and Privates, both European and Native, employed against the Burmese; and that the thanks of the Court be signified to them by the Officers of their respective corps.

Resolved unanimously, That the thanks of this Court be given to Commodore Sir James Brisbane, C.B., and to the Captains and Officers of his Majesty's and the Company's ships who co-operated with the army in the Burmese war, for their cordial, zealous, and most useful exertions, and to the Crews of his Majesty's and the Company's ships and boats employed in the service, for their spirited and intrepid conduct on all occasions; and that the Commander of his Majesty's ships on the Indian station be requested to communicate the thanks of this Court to the Officers and Men under his command.

SIEGE OF BHURTPORE.

GOVERNOR-GENERAL IN COUNCIL, LORD COMBERMERE, GENERALS REYNELL and NICOLLS, and OFFICERS and MEN.

At a GENERAL COURT held on Tuesday the 19th December 1826.

Resolved, That the thanks of this Court be given to the Governor-General in Council, for his forbearance in not resorting to measures of coercion against the usurper of Bhurtpore, as long as hopes could reasonably be entertained of accomplishing, by means of negociation, the restoration to power of the legitimate Rajah, and for his decision, on the failure of negociations, to effect the reduction of that important fortress by force.

Resolved unanimously, That the thanks of this Court be given to General Lord Viscount Combermere, G.C.B., Commander-in-chief in India,

India, for the judgment and skill with which he planned the siege of Bhurtpore, the operations of which, conducted by his Excellency in person, ended in the capture by storm of that fortress, before deemed impregnable by the natives, an achievement whereby the reputation and influence of the British power in India have been not only confirmed but most materially augmented.

Resolved unanimously, That the thanks of this Court be given to Majors-General Thomas Reynell, C.B., and Jasper Nicolls, who commanded the first and second divisions, for the eminent services which they rendered during the siege, and for the excellent dispositions which they made and personally directed for the assault of Bhurtpore.

Resolved unanimously, That the thanks of this Court be given to the Brigadiers-General, Brigadiers, Field and other Officers of his Majesty's and the Company's Forces, who served under General Lord Combermere at the siege of Bhurtpore, for their gallant and meritorious exertions.

Resolved unanimously, That this Court doth acknowledge and highly approve the discipline, steadiness, and valour displayed by the Non-commissioned Officers and Private Soldiers, both European and Native, employed in the siege of Bhurtpore, and that the thanks of this Court be signified to them by the Commanders of their respective corps.

VOTES OF PENSIONS AND MONEY

BY THE

EAST-INDIA COMPANY.

MAJOR-GENERAL SIR ARCHIBALD CAMPBELL.

At a Court of Directors held on Wednesday the 23d May 1827.

Resolved unanimously, That as a mark of the high sense which the Court entertain of the skill, gallantry, and perseverance so conspicuously displayed by Major-General Sir Archibald Campbell, G.C.B., in conducting the operations of the forces throughout the late arduous war with the Burmese, and also of the judgment and forbearance with which he availed himself of every opening for negociation which finally led to the happy termination of hostilities, Sir Archibald Campbell be granted a pension of (£1,000) one thousand pounds per annum, to commence from the date of the treaty of peace, subject to the approbation of the General Court of Proprietors and the Board of Commissioners for the Affairs of India.

At a General Court held on Wednesday the 20th June 1827.

Resolved unanimously, That this Court approve the Resolution of the Court of Directors of the 23d May last, granting to Major-General Sir Archibald Campbell, G.C.B., a pension of one thousand pounds per annum, upon the grounds therein stated, subject to the confirmation of another General Court.

This Resolution was confirmed unanimously on the 26th September 1827.

MARQUESS OF HASTINGS.

At a Court of Directors held on Friday the 3d August 1827.

Resolved, That this Court having been led to take into their consideration the circumstances of the present Marquess of Hastings, and of

of the other members of the family of his late illustrious father, Resolve as follows:

That it will conduce to the high character for liberality which has always been maintained by the East-India Company, not to suffer the immediate successor and the family of a nobleman, to whose distinguished services, zeal, and devotion they are so highly indebted, to continue under the pressure of pecuniary difficulties, and that, therefore, it be recommended to the General Court to grant the further sum of £20,000 to Trustees, for the benefit of the present Marquess of Hastings, and for the express purpose of enabling him, when he shall come of age, to take possession of his paternal mansion.

At a General Court held on Wednesday the 26th September 1827.

Resolved, That this Court approve the Resolution of the Court of Directors of the 3d ultimo, granting to the present Marquess of Hastings the sum of (£20,000) twenty thousand pounds, on the grounds therein stated, subject to the confirmation of another General Court.

This Resolution was confirmed on the 19th December 1827.

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THE END.

LONDON:
PRINTED BY J. L. COX, GREAT QUEEN STREET,
Lincoln's-Inn Fields.